S. HRG. 99-962

PUBLIC SAFETY OFFICERS' DEATH BENEFITS LEGISLATION

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIMINAL LAW

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

S. 917, S. 1479, and S. 2499

SEPTEMBER 10, 1986

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PUBLIC SAFETY OFFICER DEATH BENEFITS LEGISLATION

WEDNESDAY, SEPTEMBER 10, 1986

U.S. SENATE,
SUBCOMMITTEE ON CRIMINAL LAW OF THE
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:40 a.m., in room 562, Dirksen Senate Building, Hon. James T. Broyhill, presiding.

Also present: Senators Thurmond (chairman of the full committee) and Specter.

Staff present. Susan Asmus, legislative director (Senator Broyhill); Wendy Weiner, legislative assistant (Senator Broyhill); Cindi Blackburn, counsel, full committee; and Ron Parraguirre, counsel, Subcommittee on Criminal Law.

OPENING STATEMENT OF HON. JAMES T. BROYHILL, A U.S. SENATOR FROM THE STATE OF NORTH CAROLINA

Senator BROYHILL. The committee will come to order.

I want to welcome everyone to today's hearings. This is an important issue. We will look at the operation of Public Safety Officer Death Benefits Program. It is a privilege for me to preside over this important hearing. An effort will be made to assess the availability of death benefits under current law for professional law enforcement officers, and to determine whether we should be expanding that program.

As I recall, when the law was originally passed, it did include public safety officers—firefighters, paramedics—in the legislation.

I have a statement that I would put in the record at this point.

[The prepared statement and the text of S. 917, S. 1479, and S. 2499 follows:]

PREPARED STATEMENT OF HON. JAMES T. BROYHILL

I want to welccme everyone to this morning's hearing to assess the quality of death benefits for our Nation's public safety officers under current law. It is, indeed, a privilege for me to preside over this important hearing.

Our public safety officers—dedicated civic servants such as fire fighters, police officers and paramedics—provide a valuable benefit to communities ranging from the smallest townwhip to the largest municipality. Around the clock, they are dedicated to ensuring that the public is protected from life-threatening emergencies such as crime, and fire, in addition to responding to urgent medical needs of individuals.

In performance of their duties, public safety officers are often exposed to danger and life-threatening situations as they endeavor to protect others from the harsh realities of an often violent world. Unfortunately, for many, the dutiful discharge of their responsibilites can often result in the forefeiture of their lives, a loss that must be endured by their families and loved ones.

Today's hearing will focus on this somber fact and highlight an important area of concern to our public safety officers and their families—death benefits for these professionals and proposed legislation to reform current law.

The public safety officers' benefits act of 1976 provides a $50,000 lump-sum, tax-free Federal payment to eligible survivors of Federal, State and local public safety officers who die from injuries received in the line of duty.

Three bills are before us today, S. 1479, introduced by Senator Sasser; S. 917, introduced by Senator Glenn; and, S. 2499, introduced by Senator Riegle.

S. 1479, introduced by Senator Sasser, would expand the coverage of the Public Safety Officers' Death Benefits Act by extending death benefits to emergency medical and rescue technicians. It is my understanding that language to include members of a rescue squad as eligible beneficiaries for death benefits was omitted when action on the resolution making continuing appropriations was completed in the 98th Congress. House Joint Resolution 648, the continuing appropriations resolution, included emergency medical technicans coverage. However, when the bill emerged from conference, coverage for medical rescue squads was missing. I have been advised there was no objection to the inclusion. It was merely an oversight.

S. 917, introduced by Senator Glenn, would amend the Omnibus Crime Control Act of 1968 to extend death benefits payable to dependents of public safety officers who die of "service related causes", not the result of "direct traumatic injury." For example, a public officer who dies of a heart attack after strenuous line-of-duty rescue would be entitled to benefits.

Finally, S. 2499, introduced by Senator Riegle, would also amend the Omnibus Crime Control Act of 1968 to increase the amount of payable death benefits from $50,000 to $100,000; to allow parents to recover death benefits; and, to establish a benefit trust financed by penalties imposed on convicted felons ($500 would be collected from each felon).

I look forward to our examination of this important area and to hearing the views of our distinguished witnesses.

99TH CONGRESS
1ST SESSION

S. 917

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the payment of benefits with respect to public safety officers who die of certain medical conditions sustained in the performance of duty.

IN THE SENATE OF THE UNITED STATES

APRIL 16 (legislative day, APRIL 15), 1985

Mr. GLENN (for himself and Mr. DECONCINI) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the payment of benefits with respect to public safety officers who die of certain medical conditions sustained in the performance of duty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1201(a) of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Comprehensive Crime Control Act of 1984 (Title II, Public Law 98–473), is amended by inserting after "in the line of duty" the following: "or of a medical condition sustained while ingesting or inhaling a poisonous substance or

while subject to extreme physical stress, on a single occasion or during a single event, in the performance of duty".

SEC. 2. The amendment made by the first section of this Act shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

99TH CONGRESS
1ST SESSION

S. 1479

To amend the Public Safety Officers' Death Benefits Act.

IN THE SENATE OF THE UNITED STATES

JULY 22 (legislative day, JULY 16), 1985

Mr. SASSER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To amend the Public Safety Officers' Death Benefits Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Public Safety Officers' Death Benefits Act Amendments of 1985".

SEC. 2. Section 3796b of title 42, United States Code, is amended—

(1) in subsection (3) by deleting the semicolon at the end thereof and inserting in lieu thereof "and an officially recognized or designated public employee member of a rescue squad or ambulance crew who was responding to a fire, rescue or police emergency;"

(2) in subsection (7) by deleting all after the words "law enforcement officer" and adding in lieu thereof ", a firefighter, or rescue squad or ambulance crew."

99TH CONGRESS
2D SESSION

S. 2499

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to increase the benefit payable with respect to the death of a public safety officer, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 21 (legislative day, MAY 19), 1986

Mr. RIEGLE introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to increase the benefit payable with respect to the death of a public safety officer, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Safety Officers' Death Benefits Amendments of 1986".

SEC. 2. AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) BASIC LEVEL OF DEATH BENEFIT PAYABLE.—Section 1201(a) of title I of the Omnibus Crime Control and

Safe Streets Act of 1968 (42 U.S.C. 3796(a)) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000, adjusted in accordance with subsection (g),".

(b) PARENTS AS BENEFICIARIES.—Section 1201(a)(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(a)(4)) is amended by striking out "dependent".

(c) ANNUAL ADJUSTMENT OF BENEFIT LEVEL.—Section 1201 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended by adding at the end thereof the following new subsections:

"(g) On October 1 of each year beginning after the effective date of this subsection, the Bureau shall adjust the level of the benefit payable immediately before such October 1 under subsection (a), to reflect the annual percentage change in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, occurring in the 1-year period ending on June 1 immediately preceding such October 1.

"(h) The amount payable under subsection (a) with respect to the death of a public safety officer shall be the amount payable under such subsection as of the date of death of such officer.".

(d) TECHNICAL AMENDMENT.—

(1) AMENDMENT TO DEFINITIONS.—Section 1203 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(A) by striking out paragraph (2), and

(2) by redesignating paragraphs (3) through (7) as paragraphs (B) through (6), respectively.

(2) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 1204 the following new item:

"Sec. 1205. Trust fund.".

(e) PUBLIC SAFETY OFFICERS' DEATH BENEFITS TRUST FUND.—Part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) is amended by adding at the end the following:

"TRUST FUND

"SEC. 1205. There is established in the Treasury a special fund, to be known as the 'Public Safety Officers' Death Benefits Trust Fund'. Each person convicted of a felony in a court of the United States shall pay into the registry of the court (in addition to any fine, monetary penalty, or other amount provided by law) the sum of $500, which the clerk of the court shall deposit in the fund. Amounts in the fund shall be available for appropriation pursuant to authorization under section 1001, and for no other purpose.".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1986, and shall not apply with respect to benefits payable under part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796-3796c) in connection with the death of public safety officers occurring before such date.

Senator BROYHILL. S. 1479, introduced by Senator Sasser, would expand the coverage of public safety officers death benefits to allow death benefits to emergency medical and rescue technicians. In the 98th Congress, when an amendment including firefighters under the coverage of the act went to conference, my understanding is that language to include members of rescue squad was dropped. I am not sure at this point of the intent of the conferees. Some say it was an inadvertent omission. The bill emerged from conference, however, and the coverage for medical rescue squads was missing.

I have been advised that at that time there was no objection to the inclusion and that it was an oversight.

Now, there is another bill that we are holding here, entitled S. 917, introduced by Senator Glenn. It would amend the Omnibus Crime Control Act of 1968 to extend death benefits payable to dependents of public safety officers who die of "service related causes," not the result of "direct traumatic injury." For example, a public officer who dies of a heart attack after a strenuous line-of-duty rescue.

Finally we are holding hearings on S. 2499, introduced by Senator Riegle. The bill would amend the Omnibus Crime Control Act of 1968 to increase the amount of death benefits from $50,000 to $100,000, allow parents to recover death benefits, and establish a benefit trust financed by penalties imposed on convicted felons.

I look forward to our examination of this important area and hearing the views of our distinguished witnesses. At this time I would recognize the chairman of the committee, the distinguished Senator from South Carolina, Senator Thurmond. This is his gavel and his chair. I do not want to take it away from him, but he indicated that he would only be able to be with us for a short while.

Senator Thurmond, I would like to recognize you at this point.

OPENING STATEMENT OF HON. STROM THURMOND, A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA, CHAIRMAN, COMMITTEE ON THE JUDICIARY

The CHAIRMAN. Thank you very much, Mr. Chairman. I am very pleased to be here. You have long been interested in law enforcement and doing what should be done to protect the citizens of this country. I want to commend you for your position and your fine service in the past in connection with law enforcement.

I do not have an opening statement. I am just glad to be here for a while. I will have to leave for another engagement.

Senator BROYHILL. Well, thank you very much.

I would like to recognize at this time the distinguished Senator from Tennessee, Mr. Sasser, who is the author of S. 1479. He introduced his bill last year for the purpose, as I understand it of restoring to the law the designation of public employee member rescue squad or ambulance crews responding to a fire rescue or police emergency.

So I recognize you at this time for your statement.

STATEMENT OF HON. JIM SASSER, A U.S. SENATOR FROM THE STATE OF TENNESSEE

Senator SASSER. Thank you, Chairman Broyhill. I want to express my appreciation to you and also to my distinguished friend from South Carolina, Senator Thurmond, for holding these hearings today on an important piece of legislation.

I am very pleased to be here today as the subcommittee is considering legislation that I have introduced. This legislation would provide at $50,000 death benefit to the survivors of members of a legally organized and recognized rescue squad or ambulance crew who lose their lives as a direct and proximate result of a personal injury sustained in the line of duty.

Now, I am particularly pleased, Mr. Chairman, that the subcommittee will be hearing from Mr. Harold Schaitberger of the International Association of Fire Fighters and from Joe Phillips from Tennessee, who is the director of the emergency medical services for the State of Tennessee.

Mr. Schaitberger has been working long and hard on this issue from the very beginning, and he deserves a good deal of the credit for the progress that we have made so far.

Joe Phillips has been of an enormous assistance to me as we have drafted this bill and as we have moved it through the legislative process to this point. He is the director of the Division of Emergency Medical Services for the Tennessee Department of Health and Human Services. He is also treasurer of the National Association of State Emergency and Medical Services Directors and chairman of its Federal death benefits committee. Joe Phillips is knowledgeable on this matter, and I am sure the subcommittee is going to find his insights most valuable.

The issue addressed in my bill has come before the Senate before, as Chairman Broyhill indicated. In 1984, when the amendment to include firefighters under the coverage of the act went to conference, language to include members of a rescue squad and ambulance crew under the act were inadvertently dropped, we are told. House Joint Resolution 648, the voluminous continuing appropriations resolution, included the emergency medical technicians coverage. However, when the bill emerged from conference, coverage for medical rescue squads was missing. There was no objection to the inclusion. We are advised it was simply an oversight.

Now, unfortunately, this oversight can have devastating effects for the survivors of paramedics and other emergency medical technicians who might lose their lives in the line of duty.

For example, on June 26, 1984, Milton A. Densford, a Memphis, TN, paramedic who was hired, trained and qualified as a firefighter, responded to an emergency call in an ambulance owned by the city of Memphis and by the Memphis Fire Department. On the way to the accident, Mr. Densford was involved in a vehicular accident that resulted in his untimely and unfortunate death in the line of duty.

Although Mr. Densford's death was, and I quote: "As the direct and proximate result of a personal injury sustained in the line of duty"—and that quote is directly from the law—the Justice Department denied his survivors the $50,000 death benefit. The Jus-

tice Department stated, as rationale for this denial, and I quote: "Mr. Densford was hired in 1967 as a firefighter. He transferred to the ambulance bureau in 1973 and in 1983 was reclassified as a paramedic I. The basis for the denial"—still quoting now the Justice Department's rationale—"is that Mr. Densford's transfer and later reclassification terminated his duties and responsibilities as a firefighter."

Now, the Justice Department did not treat this incident callously, and I am not accusing them of doing that. They were merely interpreting the law as it was written. But I would submit, Mr. Chairman, that that law is inequitable.

For example, in 1977, Memphis firefighter Henry Rutledge died in a traffic accident. While the survivors of firefighter Rutledge correctly received the death benefit, Mr. Densford's survivors were denied. So we have the anomaly of one firefighter who is driving an ambulance as an emergency paramedic killed in the line of duty in a traffic accident denied the death benefits; and on the other hand, we have another firefighter who dies in a vehicular traffic accident as a firefighter on a fire truck on the way to the fire, and his survivors are awarded the death benefits. Now, they are both hired as firefighters; they are both trained and qualified as firefighters, but one is assigned to drive the ambulance or become a paramedic for the fire department, and the other is assigned to ride the fire truck. Both die in traffic accidents. One receives the death benefit, or his survivors do; the survivors of the other does not. So I think it is quickly apparent that there is an inadvertent inequity in this law.

Emergency medical technicians and paramedics who are members or volunteers of officially recognized safety departments are public safety officers by definition. These people daily risk their lives to insure the safety of our families and our neighbors in communities across this Nation. In the name of equity and in the name of fairness, the public safety officers death benefits should be extended to members of rescue squads and ambulance crews that are duly constituted and recognized and who die in the line of duty. The tragic death, I think, of Mr. Densford and the inequity worked on his survivors clearly illustrates the urgent need to do so.

So, Mr. Chairman, I would urge the Judiciary Committee to report this bill at its next markup so that it may be passed before the end of the session. Again, let me express my appreciation to you, Chairman Broyhill, for convening these hearings and allowing me to appear here this morning and testify.

Senator BROYHILL. I thank you very much for your testimony, and if you have any additional testimony that you would like to add at this point, it will be included in the record as if read.

And I do have one or two questions in order to clarify the intent of the legislation that you have introduced. I want to make clear on one point: What we are talking about are people who are clearly members of an organized or recognized public safety department. Is that correct?

Senator SASSER. That is correct, Mr. Chairman. In other words, they have to be employed by a recognized and organized public safety department. They cannot be part of some ad hoc operation. And there are strict criteria under which they must qualify.

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Senator BROYHILL. Are there definitions included in the law the term "designated public employee member of a rescue squad or ambulance crew" or will they be provided by regulation to define?

Senator SASSER. It is my understanding that it will be provided in the legislation, Mr. Chairman.

Senator BROYHILL. Your bill does not?

Senator SASSER. In that case, we would have to do it by regulation; either that or amend the bill.

Senator BROYHILL. Right.

Senator SASSER. But clearly, I think, the intent of the legislation will be——

Senator BROYHILL. We do not want this to extend to someone who just hangs around the volunteer firehouse or the local emergency squad.

Senator SASSER. We sure do not. If North Carolina is like Tennessee, in many small towns there are folks like that who just hang around to get a ride on the ambulance or the fire truck occasionally. So clearly, they ought not to be covered.

Senator BROYHILL. Under our State law, of course, in emergency rescue squads, each of them are qualifying, they are attending classes; and they are gaining expertise in their field. These are the people we are talking about, not someone who was there pouring coffee or whatever. I want to make sure of that point. That was my first question.

I have another question, and it relates to cost. Such questions come up with all of these bills. I would like to ask if you have a cost estimate for this legislation.

Senator SASSER. Yes, Mr. Chairman, we do. It is our calculation that we would be talking about a range of 12 to 15 people per year. Since the death benefit is $50,000 per person, we would be talking about costs in the range of $600,000 to $700,000 per year.

Senator BROYHILL. I thank you very much for your testimony. There are no other questions at this time, but I would like to hold the record open at least for a day or so in the event that questions do arise in these hearings that you should address as the sponsor of S. 1479. I think you should be given an opportunity to respond if other questions do arise in the hearings that occur today.

We thank you very much for your testimony. Thank you very much for your leadership in this area.

Senator SASSER. Thank you, Mr. Chairman.

Senator BROYHILL. It is my understanding that Senator Glenn, sponsor of S. 917, would like to have a statement in the record at this point.

[The prepared statement follows:]

PREPARED STATEMENT OF HON. JOHN GLENN, A U.S. SENATOR FROM THE STATE OF OHIO

Mr. Chairman, I am pleased that the Subcommittee on Criminal Law has chosen to hold a hearing on S. 917, a measure I introduced to inject a much needed element of common sense into the existing Public Safety Officers Benefit Act.

S. 917 would amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the payment of benefits to public safety officers who die of certain medical conditions sustained in the performance of duty. Under current law, benefits are granted to an officer's dependents only when the officer is killed directly in the line of duty. This provision has generated serious inequities by preventing the payment

of benefits when a law enforcement officer or firefighter dies from service-related causes which are not a result of direct traumatic injury. For example, the family of a firefighter who dies of a heart attack that is the direct result of a strenuous rescue attempt does not receive any compensation. I believe this is unfair.

The current standard for benefits payments to survivors stipulates that death must have stemmed from the direct and proximate result of a personal injury sustained in the line of duty. The new language in my amendment would grant death benefits to survivors when a public safety officer dies from a medical condition caused by ingesting or inhaling a poisonous substance, or while subject to extreme physical stress from a single event, in the performance of duty.

As I have said before, nothing can erase the anguish felt by the spouses and children who lose loved ones killed while trying to prevent injury. Congress, however, can help these families to begin the healing process without any additional financial burden created by inadequate or no payment of benefits.

Mr. Chairman, I trust that this committee will listen to the witnesses carefully. I am certain that all will agree that my amendment provides an equitable solution to a longstanding problem. Thank you.

Senator BROYHILL. At this time the Chair would recognize Mr. Charles Lauer, from the Office of Legislative Affairs, Department of Justice. I welcome you to the committee and would ask that if you want to, you include your statement in the record and summarize your remarks at this point.

STATEMENT OF CHARLES A. LAUER, DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, WASHINGTON, DC

Mr. LAUER. Thank you, Mr. Chairman.

To correct a minor point, I am the general counsel of the Office of Justice Programs, and as requested, I would like to limit my testimony to the main points and submit the statement for the record.

I will summarize the main points of the bill. With respect to S. 917, which would extend coverage to poisonous substances and extreme physical stress, and equate those to items with personal injuries, we would oppose both changes. On the subject of poisonous substances, we do not disagree with coverage of a poisonous substance when a poisonous substance does result in a personal injury. However, we think it is not necessary that the change be made. 28 CFR 32.2 already covers chemical substances. Consequently, any poisonous substances of a chemical nature which is inhaled by or otherwise exposed to an officer would already be covered.

Extreme physical stress, of course, relates to heart attacks. The Armed Services Institute of Pathology, as well as our own experience, indicates that almost all of those are the results of preexisting medical conditions, that they were not line-of-duty deaths, that the coverage would be drastically extended if it did go to extreme physical stress. It would also present us with problems of definition; that is, what would "extreme physical stress" mean.

With respect to S. 1479, Senator Sasser's bill, the Department does not oppose the change in the increased coverage for rescue squad members. However, as I indicated on page 3 of the testimony, we would suggest a change to the language that is proposed. We have a problem, a definitional problem, with the term "officially recognized." And we have suggested alternative language there to clarify that term.

I think we are in agreement with the statement that you made and the indication of the way coverage works in North Carolina and the way rescue squads are organized in North Carolina. Our

problem relates to the term "officially recognized." The term is quite vague and oftentimes used, or it could be used, after the fact. We would like "official recognition" to be a set concept ahead of time, so that the public employees of a rescue squad and the Department of Justice know who would be covered before the incidents happens.

S. 2499 contains a number of proposed amendments. First of all, it would propose to increase the benefit payment from $50,000 to $100,000 and add a cost-of-living adjustment each year. This, of course, would double the cost at the minimum, and the Department is opposed to the change, especially when it is tied to the fund source which is also proposed in S. 2499.

The proposed fund source is a $500 fine on each Federal felony. Approximately 28,000 such felonies per year could conceivably raise approximately $14 million. We feel that that is, at best, an uncertain and unreliable source. The GAO has conducted a study, and I can give a citation to that study, which reflects that as late as 2 years ago, approximately 55 percent of that type of fine was not collected. Consequently, we think that it would be an amendment without a fund source.

There is one other amendment in S. 2499 which would extend coverage by eliminating the requirement for a dependency determination for the parents of an officer who is slain. Ordinarily, it is the parents who are claimant survivors when there is no spouse or children. The Department does not want to take a position right now on that. We would like to study the change and make a recommendation at a later date.

If you have any questions, Mr. Chairman, I would be willing to answer them.

Senator BROYHILL. I would like to ask a question. On your statement on page 3, you suggest that the bill be amended to include the definition of public safety officer. I quote, "employees of State or local government certified by a State or local government to carry out duties and functions as part of a legally organized rescue squad service in such State."

Now, in the rescue squads in many of our rural areas, they are not employees; they are volunteers.

Mr. LAUER. That is correct.

Senator BROYHILL. Is your intent to include the volunteers?

Mr. LAUER. No, sir. Our intent would be to exclude the volunteers and the nonrecognized, nontrained type of people who are helpful or attempting to be helpful.

Senator BROYHILL. You believe the intent of the legislation should be only public employees and not volunteers?

Mr. LAUER. Yes, sir.

Senator BROYHILL. Thank you very much for those comments.

I recall a case that came to my attention a while back and have asked my staff to bring it to me. I have not had a chance to review it. In the interest of time, it may be best to go over this with you after the meeting.

It seems that the Department of Justice denied compensation to a police officer because he was severely injured. In this case, he was responding to a request to stop an automobile to determine who the people were, because a crime was suspected to have been

committed. They did not know it had been committed, but it was suspected it had been committed.

He stopped the car, and as a result, was shot and severely injured. It was later determined that a Federal crime had been committed, and yet he was denied benefits.

Mr. LAUER. Under those facts, Mr. Chairman, I cannot imagine a denial of benefits. The police officer who is shot and killed, whether there is a crime being committed or not, if he is on duty and he has stopped a car, or if he is hit by another car or a firefighter that would be hit by another car, would all be covered.

There may be some other factor. There may not have been a beneficiary, for example. There may not have been a surviving spouse or children. It may have been a dependency case.

But under those facts, there is no question in my mind that coverage would be extended.

Senator BROYHILL. Well, let me give you the case.

Mr. LAUER. We would be happy to review it, Mr. Chairman.

Senator BROYHILL. There is an area I would like to explore with you to determine whether or not another amendment might be in order.

Mr. LAUER. OK.

Senator BROYHILL. Thank you very much for your testimony. We appreciate your being here.

Mr. LAUER. Thank you, Mr. Chairman.

Senator BROYHILL. If we need to contact you with respect to other questions, I would appreciate your responding to those questions.

Mr. LAUER. We certainly will, Mr. Chairman.

Senator BROYHILL. You can answer them for the record.

[The prepared statement and responses to written questions follow:]

PREPARED STATEMENT OF CHARLES A. LAUER

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE,

I am Charles A. Lauer, the General Counsel for the Office of Justice Programs within the Department of Justice. I am pleased to appear before you today to testify on S. 917, S. 1479 and S. 2499, legislation to amend the Public Safety Officers' Benefits Act of 1976 (PSOB).

The PSOB Act provides a $50,000 lump sum, tax-free benefit to eligible survivors of Federal, state and local public safety officers who die from injuries received in the line of duty. Since the Act originated in 1976, the PSOB program has awarded approximately $11.5 annually and its expenditures to date are well over $100 million.

I would like to comment first on S. 917, a bill to amend section 1201(a) of the PSOB Act to extend coverage to a public safety officer who has died as the direct and proximate result of "...a medical condition sustained while ingesting or inhaling a poisonous substance or while subject to extreme physical stress, on a single occasion or during a single event, in the performance of duty." In specific regard to "...a medical condition sustained while ingesting or inhaling a poisonous substance...," we believe this language is not necessary as 28 C.F.R. 32.2 (f) defines a "traumatic injury" as "a wound or the condition of the body caused by external force, including... chemicals...but excluding stress and strain." Since ingestion or inhalation of poisonous substances would fall under chemicals, there is no need for the first clause of the amendment.

The language in S. 917 that proposes to extend coverage to officers who died "...while subject to extreme physical stress..." would create a difficult regulatory issue for the

Bureau of Justice Assistance, which administers the PSOB program, and would probably subject the Bureau to more appeals of decisions regarding PSOB claims. It appears that the intent of the language is to extend coverage to include heart attacks and occupational diseases. This type of coverage is contrary to existing PSOB legislative history, the PSOB Act and the implementing regulations. The Department of Justice opposes such a change in the PSOB program and, thus, opposes S. 917.

The second bill I have been asked to comment on is S. 1479 which proposes to expand PSOB coverage. The amendment would broaden the definition of a firefighter in section 1203(3) of the PSOB Act to cover "...an officially recognized or designated public employee member of a rescue squad or ambulance crew who was responding to a fire, rescue or police emergency..." Likewise, S. 1479 would amend the definition of a public safety officer in section 1203(7) of the Act to include "...a rescue squad or ambulance crew."

The Department has no objection to extending coverage under the PSOB Act to include public employees of public rescue squads. However, we believe coverage must be limited to line of duty deaths occurring at or in transit to or from a fire scene or law enforcement emergency. Additionally, we feel that the proposed definition of a public safety officer is too broad. The Department would support an amendment to section 1203(7) of the Act to include in the definition of public safety officer "...employees of State or local government certified by a State or local government to carry out duties and functions as part of a legally organized rescue squad service in such State."

The third bill before the Subcommittee for discussion is S. 2499, the Public Safety Officers' Death Benefits Amendments of 1986. This legislation would raise the death benefit payable under the Act from $50,000 to $100,000 and allow for an annual adjustment in this level, eliminate the dependency determination

now required for surviving parents of public safety officers killed in the line of duty, and finance the added cost of the program by establishing a special fund in the Treasury in which $500, in addition to other fines, is collected from each person convicted of a felony in a court of the United States.

The Department recommends against enactment of S. 2499 for several reasons. The intent of the PSOB program is to supplement local efforts in the area of public safety death benefits as articulated in 42 U.S.C. §3796 (e) where it states that "...benefits payable under the Act shall be in addition to any other benefit that may be due from any other source." An increase in the Federal payment may lead to states using the PSOB program to supplant rather than to supplement state benefits. Congress never intended the payments made under the PSOB Act to be made in lieu of these state and local compensation benefits and S. 2499 may have the effect of encouraging states to reduce their compensation benefits.

The Department is currently preparing its comments on a court case in which the State of Arkansas is trying to reduce worker's compensation death benefits because of payments made under the PSOB Act. The Arkansas statute in question allows any benefit paid under the Public Safety Officers' Benefits Act to be credited against the State's liability for worker's compensation death benefits.

If S. 2499 is enacted, the cost of the PSOB program would more than double because of the change in the benefit level from $50,000 to $100,000, the annual cost-of-living adjustment in this benefit level, and the fact that the dependency determination for surviving parents would be eliminated. The Department realizes that this added cost to the PSOB program is to be financed by the fines collected from felons, but is concerned about the cost of administering the proposed PSOB

Trust Fund. Additionally, we question whether or not fine levels should be raised at this time in light of the fact that maximum fine levels for all Federal criminal offenses were dramatically raised in January of this year with the enactment of the Criminal Fine Enforcement Act of 1984 (Public Law 98-596).

In specific regard to the language in S. 2499 which eliminates the dependency determination for surviving parents, the Department's Office of Justice Programs is currently reviewing the dependency issue. OJP shortly will make recommendations to the Department as to whether a dependency test should continue to be applied to these otherwise eligible beneficiaries. Elimination of the dependency requirement would increase program expenditures approximately $500,000 annually.

In conclusion, I want to thank you for the opportunity to testify on these proposed amendments to the Public Safety Officers' Benefits Act. The Department continues to believe that the PSOB program is an important one, one that helps ease the sudden economic burdens imposed on families of public safety officers who are killed in the line of duty. These brave officers have made the supreme sacrifice in pursuit of their duties and we will assure their dependents that they have adequate financial assistance to see them through their difficulties.

I will be pleased to respond to any questions you or members of the Committee may have on the Department's views on the three PSOB bills before us today.

SUBCOMMITTEE ON CRIMINAL LAW
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

Hearing regarding S.917, S.1479 and S.2499,
Legislation to Amend the Public Safety Officers' Benefits Act

September 10, 1986

QUESTIONS SUBMITTED BY SENATOR ARLEN SPECTER

1. The Criminal Law Subcommittee currently is considering three bills to amend the Public Safety Officers' Benefi Act of 1976. Which of these bills, if any, do you oppo Support? What amendments, if any, to any or all of th bills would you recommend? What are your views regardi the differences among these bills?

2. The Public Safety Officers' Benefits program has awarded approximately $11.5 million annually since its enactment in 1976. What is your view regarding the funding mechanism in S.2499, the "Public Safety Officers' Death Benefits Amendments of 1986," to finance the increase in a death benefit payable under the Act? What other alternative funding mechanisms, if any, would you recommend to finance an increase in the death benefit from $50,000 to $100,000 under the Act?

3. The Public Safety Officers' Benefits Act of 1976 provi a tax-free benefit to eligible survivors of Federal, state and local public safety officers who die from injuries received in the line of duty. What is your view regarding the legislative proposals before this Subcommittee to expand the coverage of the Act?

U.S. Department of Justice

Office of Justice Programs

Washington, D.C. 20531

October 3, 1986

Ronald D. Parraguirre
Counsel
Subcommittee on Criminal Law
United States Senate
148 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Parraguirre:

This is in response to your letter of September 11, 1986, which requested that the Department of Justice answer several questions concerning S. 917, S. 1479, S. 2499, the proposed legislation to amend the Public Safety Officers' Benefits Act of 1976, as amended. For the purpose of organization, I shall answer your questions in their order of appearance.

As they are presently worded, DOJ opposes the passage of all three bills. S. 917 is a bill to amend section 1201(a) of the PSOB Act by extending coverage to a public safety officer who has died as the direct and proximate result of "...a medical condition sustained while ingesting or inhaling a poisonous substance. We believe this language is superfluous in light of 28 C.F.R. §32.2(f) which covers this factual situation. Furthermore, the DOJ is opposed to extending coverage to officers who died "...while subject to extreme physical stress..." because of the difficult regulatory issue such language would impose.

The Department opposes S. 1479 by its expressed terms. The amendment would broaden the definition of a firefighter in §1203(3) of the PSOB Act to cover "...an officially recognized or designated public employee member of a rescue squad or ambulance crew who was responding to a fire, rescue or police emergency..." (emphasis supplied). Likewise, S. 1479 would amend the definition of a public safety officer in §1203(7) of the PSOB Act to include "...a rescue squad or ambulance crew."

We have no objection to extending coverage under the PSOB Act to include public employees of public rescue squads. We feel that the proposed definition of a public safety officer is too broad. The Department would support an amendment to section

1203(7) of the Act to include in the definition of public safety officer "...employees of State or local government certified by a State or local government to carry out duties and functions as part of a legally organized rescue squad service in such State."

The third bill, S. 2499, would raise the death benefit payable under the Act from $50,000 to $100,000 and allow for an annual adjustment in this level, eliminate the dependency determination now required for surviving parents of public safety officers killed in the line of duty, and finance the added cost of the program by establishing a special fund in the Treasury in which $500, in addition to other fines, is collected from each person convicted of a felony in a court of the United States.

The Department recommends against enactment of S. 2499 for several reasons. The intent of the PSOB program is to supplement local efforts in the area of public safety death benefits as articulated in 42 U.S.C. §3796(e) where it states that "...benefits payable under the Act shall be in addition to any other benefit that may be due from any other source." An increase in the Federal payment may lead to states using the PSOB program to supplant rather than to supplement state benefits. Congress never intended the payments made under the PSOB Act to be made in lieu of these state and local compensation benefits and S. 2499 may have the effect of encouraging states to reduce their compensation benefits.

Your second question focuses on S. 2499's funding mechanism. S.2499 would fund the increase in the benefit from $50,000 to $100,000 coupled with the annual cost-of-living adjustment, by fines collected from felons. The Department is concerned that the costs of administering and attempting to collect the proposed PSOB trust fund may prove to be unmanageable. Additionally, we question whether or not fine levels should be raised at this time in light of the fact that maximum fine levels for all Federal criminal offenses were dramatically raised in January of this year with the enactment of the Criminal Fine Enforcement Act of 1984 (Public Law 98-596). At this time, the Department is unable to offer any alternative suggestions for possible sources of financing this proposed increase in benefits.

The third question you pose requests our view regarding the legislative proposals to expand coverage of the Act in light of the fact that the benefit is tax-free. We are without authority to comment in a detailed fashion on the tax consequences of the new proposals. However, we are able to direct you to the brief IRS ruling which sets forth the proposition that the PSOB benefits granted are tax free. See Ruling No. 77-235 IRB 1977-28.

I hope that these responses to your questions will serve to clarify the Department's position concerning S. 917, S. 1479, S. 2499. If I may be of further assistance, please do not hesitate to contact me at 724-6235.

Sincerely,

Charles A. Lauer
General Counsel
Office of General Counsel

Senator BROYHILL. At this time I would like to recognize Mr. Harold Schaitberger, who is the director of the Department of Governmental Affairs and Public Relations of the International Association of Fire Fighters.

Mr. Schaitberger, I note you have an associate with you. Would you like to introduce him? You can proceed to summarize your testimony, and we will include your complete testimony in the record.

STATEMENT OF HAROLD A. SCHAITBERGER, DIRECTOR, DEPARTMENT OF GOVERNMENTAL AFFAIRS AND PUBLIC RELATIONS, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO, WASHINGTON, DC, ACCOMPANIED BY MARTIN HOLLAND, PRESIDENT, LOCAL AFFILIATE, CHICAGO, IL

Mr. SCHAITBERGER. Thank you, Mr. Chairman.

I would like to introduce a gentleman accompanying me today, Mr. Martin Holland, who is the president of our local affiliate in Chicago, IL.

Senator BROYHILL. So he is your boss.

Mr. SCHAITBERGER. I have 170,000 bosses, and he is an important one.

Senator BROYHILL. So he is an important person.

Mr. SCHAITBERGER. That is right.

Mr. Chairman, I would first like to express the sincere appreciation of the International Association of Fire Fighters for the opportunity to participate in these hearings to express our views on several subjects we consider to be of extreme importance to all firefighters and public safety officers.

I will summarize a statement that I have submitted and ask that our full statement be included in the record.

Since the passage of the Public Safety Officers Benefits Program, two serious problems in the administration of the act have become apparent; that is, the denial of death benefits to one class of public safety officers—the paramedics or emergency medical technicians; and the denial of benefits to public safety officers who were killed in the line of duty as a result of nontraumatic injuries, such as heart attack.

As you are aware, the Public Safety Officers Benefits Program was passed in 1976 in order to provide a $50,000 Federal payment to the surviving dependents of firefighters and law enforcement officers who give their lives in the line of duty. Although it was Congress' clear intent to provide all public safety officers with the line-of-duty death benefit, we find that since 1976, the survivors of paramedics and EMT's have been denied this privilege. This inequity has arisen as a result of the definitions of firefighter developed during the regulatory process.

The Department of Justice, which administers the death benefit, defined firefighter as—and I quote—"all fire service personnel authorized to engage in the suppression of fires." Because many paramedics and EMT's do not have primary or collateral responsibility for fire suppression, they are excluded from eligibility for the benefit.

In other words, if a paramedic and a firefighter working side by side at a fire or other emergency scene are both killed, the fire-

fighter's family would received the $50,000 benefit and the paramedic's family would not 'Why? The answer is that, although the paramedic was truly acting in a public safety capacity, his or her responsibility was not "the suppression of fires," and I quote.

I have also in my testimony described a tragic situation that occurred in a Memphis, TN, Fire Department; however, I will not repeat it since the distinguished Senator from Tennessee, Mr. Sasser, gave that account very eloquently. We would like to underline that, though, as a glaring problem, an example of the inequity of the current situation.

Clearly, that result of that case is contrary to the intent of Congress, and this is why we have come here today to urge you to adopt S. 1479 to clarify the eligibility of survivors of paramedics and EMT's killed in the line of duty to receive the death benefit.

Just prior to mentioning the budget impact, I would like to ask if Mr. Holland, since Chicago has a significant number of these personnel and a glaring example of the situation, I would ask if Mr. Holland would make just a couple of remarks.

Senator BROYHILL. You are recognized at this point, Mr. Holland. We are glad to welcome you to the committee.

STATEMENT OF MARTIN HOLLAND

Mr. HOLLAND. Thank you.

Certainly, in the city of Chicago, I must point out that we have the largest EMS corps in the Nation. We operate 49 ambulances currently, with over 500 personnel. We have operated the EMS service or the ambulance corps, as it were, in Chicago for over 40 years. They have always been firefighters, and the message I have is that they have always been an integral part of the Chicago Fire Department. It is part of the fire response team.

In Chicago, we have not suffered a death of a paramedic since 1976. However, we have had permanent disabled fire paramedics due to vehicle accidents, due to shootings, due to a falling wall while attempting rescues, exposure to toxic fumes, and the list goes on and on.

In Chicago, in fact, as I left Chicago yesterday, we have a young firefighter, Dave DePeter, on the second floor porch. It collapsed during the fire. The wall was unstable in the rear of that building. The firefighter had to be extricated from underneath the ruins.

There was a fire paramedic who crawled down to that hole that was stabilizing him with a very serious back injury. Other fire personnel were removing the decking and porching. And all the time this rear wall of this building that was on fire was certainly a life-threatening situation for all involved.

We have to ask ourselves why in the world would there ever be this disparity in coverage in the Public Safety Officer Benefits Act. We need this act. We have a large response and a large personnel in the city of Chicago, and certainly we want to integrate them totally, with total parity and a matter of equity there. And certainly, we want our people cross-trained, we want them going throughout the thing, because it is a part of the fire suppression team to have those highly trained personnel on the fire ground at all times doing the same job as firefighters. It is really sorely needed for us.

Senator BROYHILL. Thank you very much.

Mr. SCHAITBERGER. The budget impact of the bill is negligible. As Senator Sasser mentioned, we believe that the cost of the legislation will be less than $1 million a year. Fortunately, only a handful of paramedics are killed in the line of duty each year. Even so, we cannot afford to brush this aside as insignificant. The tragedy and pain for the families and children of paramedics and EMT's killed in the line of duty is very great. A small budget sacrifice on the part of Congress can, in this case, make a great impact on the lives of survivors of the public safety personnel killed in the line of duty.

I would also, if I may, like to mention as a followup to a question to the gentleman from the Justice Department that the IAFF, although we represent professional firefighters, employed by local city and State government, we would support and believe that the coverage of this provision should be extended to recognized volunteer personnel who are duly trained and capable and recognized as paramedics or EMT's and those recognized departments that may be volunteer in nature. We would not want this restricted only to employees of public service.

I also want to discuss today another serious problem created by the promulgation of certain administrative regulations regarding the PSOB death benefit problem. During their deliberations on the PSOB Act, both Congress and its committees expressed their strong resistance to making the act into a national heart and occupational disease presumption bill. Since there are a number of states who have presumptive laws for disability purposes, the Congress in 1976 was concerned that this provision or this act not be turned into a national heart and lung law.

The IAFF agreed with Congress and supported the measure as one which would only pay the death benefit to the surviving dependents of public safety officers who were actually killed in the line of duty. Let me stress again, who were killed in the line of duty. That is, and we believe remains, the congressional intent.

Today, however, we find that firefighters who die in the line of duty are being denied the benefit program due to the definitions developed during the regulatory process. The act's language requires that the death benefit be paid if a public safety officer's death is the "direct and proximate result of a personal injury sustained in the line of duty." In its report on the legislation, the House Judiciary Committee defined personal injury as "all injuries to the body which are inflicted by an outside force, whether or not it is accompanied by a physical impact, as well as diseases"—and I underline diseases—"which are caused or result from injuries but not diseases that merely arise out of performance of duty.

The Law Enforcement Administration interpreted this definition of personal injury as limiting coverage to deaths caused by "traumatic injuries" only. The regulations, accordingly, define "traumatic injury" to mean "a wound, or other condition of the body caused by external force, including the injuries inflicted by bullets, explosives, sharp instruments, blunt objects or other physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation, and bacteria but excluding stress and strain." Deaths caused by traumatic injuries do not, therefore, include deaths directly attributable to exertion or stress encountered in the performance of

duty, unless that stress resulted in or was caused by a traumatic injury.

As a result of these regulations and definitions, many firefighters who die in the performance of duty from medical conditions, such as heart attack, are denied the death benefit, despite the fact that the death occurred at the scene of the fire and is traceable to a single occasion or incident of firefighting or emergency related activity.

While these definitions play a primary role in what we perceive to be the unintended denial of death benefits to public safety officers who die in the line of duty, they fail to capture the tragic reality of the inequity of those denials. One example of the inequity that we are speaking of will, in a parochial way, help to bring this tragic problem into focus.

If you will, picture a blazing apartment fire, where a firefighter climbs a ladder to a second floor window, enters the building to make a rescue of an individual reported to be trapped. The firefighter locates the victim, who is unconscious, overtaken by carbon monoxide and smoke, places them in a proper carry, carrying them out the window and down the ladder to safety.

After reaching the ground and allowing other emergency personnel to assist the victim to an awaiting ambulance, the firefighter collapses and is pronounced dead at the scene of the fire. A subsequent coroner's ruling states that the death was caused by heart attack. The surviving dependents of this firefighter are denied the $50,000 benefit because the death was caused by heart attack, even though it was obviously work-related and occurred directly in the line of duty.

S. 917, introduced by Senator Glenn, seeks to remedy the inequity of this situation.

Finally, the IAFF would like to express its support for S. 2499, a bill introduced by Senator Riegle to increase the amount of death benefits from $50,000 to $100,000, and to provide for an annual cost-of-living adjustment.

This bill would also establish a trust fund for the payment of benefits from a trust fund maintained by the Treasury and funded by the payment of fines by convicted felons.

In order to provide the proper and appropriate level of support Congress intended for the widows and children of deceased public safety employees, the amount of the benefit must be adjusted occasionally to reflect changes in the economy and cost of living. We believe that periodic adjustments to the amount of the award is essential to maintaining the same level of Federal commitment to the program that was originally intended.

In conclusion, I want to thank the chairman and the committee once again for the opportunity to be heard on these three important bills. I would be glad to answer any questions you may have.

Senator BROYHILL. You have heard the concerns expressed in earlier testimony by Mr. Lauer of the Justice Department about the definition of stress. What are your comments with respect to his testimony?

Mr. SCHAITBERGER. Well, one of the problems with excluding heart attack or what could be stress-related death is something that we are becoming more and more exposed to, and that is the

results of exposure to toxic byproducts from fire which we are now finding. For example, the burning of plastics and PVC which we are exposed to on a daily basis can cause edema. An acute exposure can cause edema. Edema, therefore, can result in heart failure. So that you can be engaged in a firefighting activity, you can be exposed to certain toxic byproducts by fire. The exposure to that can cause edema or other situations which can cause a heart attack, and in the current situation, the coroner's ruling of that heart attack would disallow the coverage of that individual because all heart attacks are considered excluded because they believe there could be some precondition.

So we believe that if you can directly connect the death, regardless of the technical or medical cause of death, with the occasion or with a specific incident and make the connection that this individual, be it fire or police, was in fact actually engaged in an emergency activity or was engaged in a duty-related function, then the coverage should be extended.

We in no way view this as trying to turn this into a national heart or lung presumption bill.

Senator BROYHILL. You are saying that the definition in Mr. Glenn's bill is very narrow; that it applies to the medical conditions sustained while ingesting or inhaling a poisonous condition on a single occasion or during a single event, and in the performance of duty?

Mr. SCHAITBERGER. We would support making the connection on a single occasion or during a single event. We recognize that the objection to this expansion of coverage is to try to guarantee that the benefit is extended only where the death is in the line of duty. And when you are trying to extend that coverage to heart and other conditions, or death arising from heart and other conditions and not just from traumatic injury, we recognize that there has to be some narrowing to guarantee that, and we support that.

But we believe if the connection can be made that the individual incurred this condition during a single occasion, at the event of a single occurrence, or we can tie it to an action that took place during an event, then we believe the benefit should be extended.

So we would not oppose the narrowness in that context.

Senator BROYHILL. I could articulate a number of instances where perhaps a firefighter would pass away after a lingering illness and then go back and attempt to connect his illness to something that happened years before. You are not wanting to make this that broad?

Mr. SCHAITBERGER. No. Our intention is not to do that. Let me give you an example which happened in this city a number of years ago. A station was called out to an office fire in the city. The location escapes me, but the fire turned out to be simply a Xerox machine. The firefighters went in to remove the Xerox machine from the office. However, the Xerox machine, in burning, and the plastics and materials that it contained, a firefighter was exposed to what we believe now was hydrogen cyanide.

He went back to the station, had a headache, did not feel that well, and the next morning when the oncoming shift came in they found the firefighter a number of hours later dead. The death was attributed to be a heart attack, but there was little question that

the connection was directly with the occasion or the incident which had happened the previous evening in being exposed to the toxins that came off that Xerox machine.

That is the kind of incident we believe should be covered.

Senator BROYHILL. We thank you very much for your testimony. Thank you for your concerns, and we will excuse you at this time.

Mr. SCHAITBERGER. Thank you.

[The prepared statement follows:]

PREPARED STATEMENT OF HAROLD A. SCHAITBERGER

Mr. Chairman, members of the Subcommittee, I would first like to express the sincere appreciation of the International Association of Fire Fighters for the opportunity to participate in these hearings to express our views on a subject we consider to be of extreme importance to all fire fighters and public safety officers. The International Association of Fire Fighters represents 170,000 dedicated public safety employees in the United States. Our members are proud of their role as protectors of lives and property in communities all across the nation and take a keen interest in any legislation affecting the Public Safety Officers Benefits Act of 1976.

Consistent with its commitment to improving the lot of fire fighters and their families, the IAFF played a key role in the passage of the Public Safety Officers Benefits Act in 1976, and in the establishment of its death benefit program. However, since passage of the PSOB, two serious problems in the administration of the Act have become apparent--that is, the denial of death benefits to one class of public safety officers: the Paramedics or Emergency Medical Technicians (EMTs) and the denial of benefits to public safety officers who are killed in the line of duty as a result of non-traumatic injuries such as heart attack.

As you are aware, the Public Safety Officers Benefits Act was passed in 1976 in order to provide a $50,000 Federal payment to the surviving dependents of fire fighters and law enforcement officers who give their lives in the line-of-duty. The justifying rationale for this legislation was twofold:

First, it sought to provide the survivors of these public safety officers with needed financial support, since many of them found it difficult to obtain adequate life insurance coverage as a result of the hazardous nature of their work. While Labor Department surveys have shown public safety professions to be among the most hazardous in the world, many states have failed to provide adequate death benefits for surviving dependents.

Second, the PSOB sought to recognize and act on society's moral obligation to help compensate the families of those individuals who daily risk their lives to protect our families and communities from the ravages of fire.

We do not want to spend too much time today discussing the rationale for enactment of the original Act--that is not the issue before us today. However, we do believe it is essential to reflect on the original intent of the Act, in order to demonstrate the necessity for enactment of legislative measures to correct these grave inequities.

Although it was Congress' clear intent to provide all public safety officers with a line-of-duty death benefit, we find that since 1976 the survivors of Paramedics and EMT's have been denied this benefit. This inequity has arisen as a result of the definitions of "fire fighter" developed during the regulatory process. The Department of Justice, which administers the death benefit, defined "fire fighter" as "all fire service personnel authorized to engage in the suppression of fires..." (28 C.F.R. 32.2 (h), (i) and (j)). Because many paramedics and EMT's do not have primary or collateral responsibility for fire suppression, they are excluded from eligibility for the benefit. In other words, if a paramedic and a fire fighter working side by side at a fire are both killed, the fire fighter's family would receive the $50,00 benefit and the paramedic's family would not. Why? The answer is that although the paramedic was truly acting in a public safety capacity, his or her responsibility was not "the suppression of fires".

The following example captures well the tragic reality of the unintended denial of death benefits to Paramedics:

On June 26, 1984, Mr. Milton Densford, a paramedic employed by the City of Memphis Fire Department, was killed in a vehicular accident while responding to an emergency call in an ambulance owned by the City of Memphis. Mr. Densford was hired and trained as a fire fighter by the City of Memphis in 1967. In 1973, after appropriate training, Mr. Densford transferred into the City's Ambulance unit and in 1983 was reclassified as a Paramedic. The Ambulance unit was an official section of the City's Fire Department. Despite this, Mr. Densford's widow and children were denied the death benefit. The reason for the denial was that Mr. Densford's transfer to the ambulance bureau ended his responsibilities for the "suppression of fire." If Mr. Densford had been one of the fire fighters responding to the same emergency, his family would have received the benefit.

Clearly, this result is contrary to the intent of Congress and this is why we have come here today--to urge you to adopt S. 1479 introduced by Senator Sasser to clarify the eligibility of the survivors of Paramedics and EMT's killed in the line-of-duty to receive the death benefit.

This is not the first time this inequity has been brought to the attention of Congress. In 1984 the PSOB benefit was expanded to include federal public safety officers. The issue of coverage of paramedics and EMTs was discussed at that time and there were no objections to inclusion of language clarifying their eligibility. Therefore, H.J. Res 648, the voluminous continuing appropriations resolution contained language to include the EMTs in the program. When the bill went to conference, language to cover paramedics and EMTs was dropped.

The budget impact of the bill is negligible. Fortunately, only a handful of paramedics are killed in the line of duty each year. Even so, we cannot afford to brush this issue aside as insignificant. The tragedy and pain for the families and children of paramedics and EMTs killed in the line of duty is very great. A small budget sacrifice on the part of Congress can, in this case, make a great impact on the lives of survivors of public safety personnel killed in the line-of-duty.

I also want to discuss today another serious problem created by the promulgation of certain administrative regulations regarding the PSOB death benefit program.

During their deliberations on the Public Safety Officers Benefits Act, both Congress and its Committees expressed their strong resistance to making the Act into a national heart and occupational disease presumption bill. Legislation has been passed in at least thirty three states providing that a fire fighter death or disability involving heart, cardiovascular or respiratory disease will be considered job or occupationally related, unless proven otherwise by competent medical evidence; and there was great concern in Congress that the PSOB might become a national version of these measures.

The IAFF agreed with Congress and supported the measure as one which would only pay the death benefit to the surviving dependents of public safety officers who are actually killed in the line of duty--let me stress again--who are killed in the line of duty. That was, and we believe remains, the Congressional intent.

Today, however, we find that fire fighters who die in the line-of-duty are being denied the PSOB deat' benefit, due to the definitions developed during the regulatory process. The Act's language requires that the death benefit be paid if a public safety officer's death is the "direct and proximate result of a personal injury sustained in the line-of-duty." In its report on the legislation, the House Judiciary Committee defined "personal injury" as "all injuries to the body which are inflicted by an outside force, whether or not it is accompanied by a physical impact, as well as diseases which are caused or result from injuries, but not diseases that arise merely out of performance of duty".

The Law Enforcement Assistance Administration (LEAA) interpreted this definition of personal injury as limiting coverage to deaths caused by "traumatic injuries" only. The regulations, accordingly, define "traumatic injury" to mean "a wound, or other condition of the body caused by external force, including the injuries inflicted by bullets, explosives, sharp instruments, blunt objects or other physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation, and bacteria but excluding stress and strain." Deaths caused by traumatic injuries do not, therefore, include deaths directly attributable to exertion or stress encountered in the performance of duty, unless that stress resulted in or was caused by a traumatic injury that was significant as a cause of the fire fighter's death.

As a result of these regulations and definitions, many fire fighters who die in the performance of duty from medical conditions, such as heart attack, are denied the $50,000 death benefit, despite the fact that the death occured at the scene of a fire and is traceable to a single occasion or incident of fire fighting or emergency related activities. Where, for instance, it is determined that the cause of death was myocardial infarction, resulting from a coronary thrombosis, no benefit is paid unless the claimant can demonstrate a substantial connection between a traumatic injury and the thrombosis.

While these definitions play a primary role in what we perceive to be the unintended denial of death benefits to public safety officers who die in the line-of duty; they fail to capture the tragic reality of the inequity of those denials. One example of the inequity that we are speaking of will, in a parochial way, help to bring this tragic problem into focus.

If you will, picture a blazing apartment fire, where a fire fighter climbs a ladder to a second floor window and enters the building to make a rescue of an individual reported to be trapped. The fire fighter locates the victim, who is unconscious, overtaken by carbon monoxide and smoke, and places them in a proper carry, bringing them out of the window and down the ladder to safety.

After reaching the ground and allowing other emergency personnel to assist the victim to an awaiting ambulance, the fire fighter collapses and is pronounced dead at the scene of the fire. A subsequent coroner's ruling states that the death was caused by a heart attack. The surviving dependents of this fire fighter are denied the $50,000 death benefit, because the death was caused by heart attack, even though it was obviously work-related and occured in the line-of-duty.

S. 917, introduced by Senator Glenn seeks to remedy the inequity of such situations. The amendment to the Act is narrow enough so that coverage would only be provided to those public safety officers who lose their lives while directly engaging in emergency situations or in the direct performance of duty. We believe that S. 917 is drafted in such a way as to provide benefits only to those individuals truly entitled to the death benefit--that is, to those who give their lives in the line-of-duty while serving their fellow citizens.

We are fully aware of and sensitive to the strains on Congress and the Federal government during these difficult budget times. We would, therefore, like to bring to your attention the fact that if this legislation had been in force in fiscal year 1981, when only 38 claims were rejected by the PSOB administration due to job-related diseases, assuming that 70% of the 38 claims would have been covered under the new language, which is not at all certain, the legislation would have cost an additional $1.3 million in that year. It is clear to us that this legislation would cost, at most, approximately $1-2 million per year.

Again, we believe that this bill will simply correct an unintended inequity which was created in trying to insure that only those public safety officers who give their lives in the performance of duty receive the PSOB death benefit. S. 917 is compatible with that intent.

Finally, the IAFF would like to express its support for S. 2499, a bill introduced by Senator Riegle to increase the amount of the death benefit from $50,000 to $100,000 and to provide for annual cost-of-living adjustments. The Riegel bill would also establish a trust fund for the payment of benefits from a trust fund maintained by the Treasury and funded by the payment of fines by convicted felons.

In order to provide the level of support Congress intended for the widows and children of deceased public safety employees, the amount of the benefit must be adjusted occasionally to reflect changes in the economy and cost-of-living. During the last ten years since the enactment of the PSOB, the level of benefits has never been adjusted. We believe that periodic adjustments to the amount of the award is essential to maintaining the same level of federal commitment to the program.

In conclusion, I want to thank the Committee once again for the opportunity to be heard on these three important bills. I urge the Committee to report the bills favorably and allow them to move through the legislative path toward eventual enactment.

Senator BROYHILL. We will now recognize the next witness, Mr. Joseph Phillips from Nashville, TN, with emergency medical services. He is the division director of Emergency Medical Services, Nashville, TN.

Mr. Phillips, I welcome you. There are ground rules. In the interest of time if you would like to submit your complete testimony for the record we would very much appreciate a summary of your remarks.

STATEMENT OF JOSEPH PHILLIPS, DIVISION DIRECTOR, EMERGENCY MEDICAL SERVICES, NASHVILLE, TN

Mr. PHILLIPS. Thank you, Mr. Chairman. We certainly appreciate this opportunity for the National Association of State Emergency Medical Services Directors to testify before this group and to support S. 1479.

As we have already heard from two prior witnesses this morning, the Milton Densford case is an excellent example of the inequities that exist currently under the Public Safety Officers Benefits Act. The fact that he was a firefighter but was also a paramedic and was killed on an ambulance and his family did not receive the death benefit is the inequity that we would like to see addressed and removed, the mechanism being S. 1479.

Densford's death, along with the deaths of five other emergency medical technicians, were the reasons that I became interested in this issue over a year ago. Unfortunately, Tennessee has had the tragedy of six EMS personnel being killed in the line of duty, more than any other State within the decade of the 1980's.

Last year, in Santa Fe, NM, our national association met; I raised this issue, and a number of other State directors were equally concerned. So the association approved the formation of a Federal death benefits committee which I chair. The purpose of it is to provide information and assistance to amend the Benefits Act.

We discussed the issues involving S. 1479 with Senator Sasser's staff and decided that the most appropriate thing for us to do would be a nationwide survey of EMS deaths. This has never been done before. We used our recently developed National EMS Clearinghouse to do this. Survey work began early this spring, and we now have 71 EMS deaths identified beginning with our survey period of January 1983. It so happens that there were several deaths reported in this survey that occurred before that time, but we felt that we would go ahead and include those in the survey.

Also, we have collected, in most cases, the names of the EMT's paramedics or rescue personnel killed in the line of duty, and that information is available.

We also broke these deaths down by category and type of injury. Most common was traffic crashes. Now, this did not surprise me because all six EMS personnel killed in Tennessee died in ambulance crashes. Air ambulance accidents were a surprise. We had some 32 percent of all deaths caused in that category. Occupational injury or disease, some 18 percent. And this included a full range of things such as poisonous gas, chemicals, and contagious diseases which were fatal, such as hepatitis B.

Now, in the testimony, the sheet that I submitted this morning, I see there is an error. We only had one death caused by criminal activity. We have the numbers reversed on criminal activity and deaths of unknown origin. So apparently criminal activity is not a big hazard to EMS personnel. We are thankful for that.

Senator BROYHILL. We will ask the reporter to make that correction in your testimony.

Mr. PHILLIPS. Now, we realized when we first published this report in June, that every State has not reported. Since that time, we have decided to keep a permanent register of EMS deaths at the clearinghouse and have collected 11 other names. That is included in the figures that I just gave you.

For the first time we have a good understanding of the most lethal threats to the EMS personnel. We are not surprised that ambulance crashes are the leading cause of death. The ambulance is the one public safety vehicle which must not only respond to the scene of an emergency, running in emergency traffic, but quite often must leave the scene of the emergency running under dangerous conditions. So quite often the hazard is there both ways for EMS personnel.

I think that in 1976, when the original Public Safety Officers Benefits Act was passed, that there was not a great deal of national public perception of EMS as being an important and separate public safety service. In spite of the "Emergency" television program and the exposure that was given EMS by that, many communities did not have readily identified third service or active fire department EMS organizations.

In 1986, the situation is very different. I think that organized EMS exists almost everywhere in the country. It is generally publicly recognized as an important public safety service. I think it is time to address the situation of the EMS personnel not being covered by the Benefits Act.

The fact that people providing EMS are exposed to documented hazards and sometimes surrender their lives because of them establishes the issue. That issue is equity. Law enforcement officers and firefighters have received Federal recognition for the hazards of their occupations by the Benefits Act. It is a matter of equity that EMS and rescue providers be likewise recognized.

To summarize, the Milton Densford case points out the inequities in the current law, and we would certainly like to see that change by the passage of S. 1479.

The national survey of EMS deaths indicates that these deaths will not exceed 15 to 20 deaths a year, and the figures that you heard earlier about the budget impact, I think, fall into this range of deaths.

Senator SPECTER. Mr. Chairman, may I interrupt the witness for 1 minute? I regret that I cannot stay longer, but we have a hearing in the Judiciary Committee concerning product liability, as everyone knows. There are so many events.

Senator BROYHILL. The Senator from Pennsylvania. We are delighted to have you here and would like you to stay if your schedule permits. This is a most interesting subject that affects the emergency medical service people in your State. We appreciate your coming and showing your interest.

OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator SPECTER. Well, I am very much concerned about this subject, and I do not think any subcommittee in the Congress is more important than the Criminal Law Subcommittee of Judiciary. And I do have some questions which I would like to submit for the record. I would also like to commend the witness for appearing to testify before the subcommittee, and you, Mr. Chairman, for convening this hearing.

I wish I could stay longer, but I simply cannot. I just wanted to make that brief comment. Thank you very much, Mr. Chairman.

Senator BROYHILL. Thank you very much, Senator Specter. We appreciate your comments. We seem to have growing support for this legislation today.

I would like to ask some questions with respect to the survey that you have submitted on the total deaths reported. You have testified that the average deaths would be 15 to 20 annually.

Mr. PHILLIPS. Right.

Senator BROYHILL. Yet your survey indicated 71.

Mr. PHILLIPS. Well, that is really over more than a 3½-year period.

Senator BROYHILL. I see. All right. I was looking at the report. That is a 3½-year period.

Mr. PHILLIPS. Right. And we are also estimating that we have probably still missed a few which we intend to collect, if at all possible. We think that 15 to 20 deaths annually is what we are actually experiencing.

Senator BROYHILL. Can you summarize why you feel that emergency medical service personnel were overlooked or omitted when the act was first enacted?

Mr. PHILLIPS. Well, I think it is a possibility that 10 years ago EMS really was not perceived as being a separate and distinct service. We have had law enforcement and firefighting for centuries, and they are well recognized. EMS is really the new kid on the block of public safety, made possible by technology and what we have learned in our last two or three wars and from improvements in emergency cardiac care.

With the passage of the Highway Safety Act of 1966 and the EMS Systems Act of 1973, we have seen the communities develop their EMS systems. But many of them were just getting started in 1976. I think it was easy to overlook EMS 10 years ago.

I think now, as I pointed out, the situation is very much different, and with all the EMS organizations involved, there are over 11,800 ambulance services in the country today and over a quarter of a million EMS personnel who are involved in providing prehospital emergency medical care. So I think EMS has arrived, and we certainly would like to see the inequity in the Benefits Act corrected.

Senator BROYHILL. We thank you very much for your testimony. We appreciate your traveling all the way to the Nation's Capital to give this testimony. I assure you that your views are not only important, but they are being heard.

Thank you very much.

Mr. PHILLIPS. Thank you.

[The prepared statement follows:]

PREPARED STATEMENT OF JOSEPH PHILLIPS

Paramedic Milton A. Densford, while responding to an emergency call in a Memphis, Tennessee, Fire Department ambulance, was killed in a collision with a car on June 26, 1984.

After Densford's death, Memphis officials applied to the U.S. Department of Justice on behalf of his family for the $50,000 benefit available to survivors of law enforcement officers and firefighters killed in the line of duty. This $50,000 benefit was created by Congress in 1976 when it enacted the Public Safety Officers' Benefits Act (P.L. 94-430).

As Milton Densford was also a firefighter, it seemed reasonable to city officials that his family would be awarded the benefit. The application, however, was denied because he was serving on an ambulance at the time of his death. Ambulance personnel are not eligible for benefits under the current law.

It was this situation that led U.S. Senator Jim Sasser (Tenn.) to propose S.1479 to amend the Benefits Act to include EMS and rescue personnel.

My interest in this issue also developed because of Milton Densford's death and the deaths of five EMTs in two other ambulance accidents in Tennessee during an 18-month period. I raised the issue at the annual meeting of the National Association of State EMS Directors (NASEMSD) in October, 1985 in Santa Fe, New Mexico. Several other state EMS Directors were equally concerned and the association approved the formation of an ad hoc group entitled the "Federal Death Benefits Committee." Its purpose is to provide information and assistance to amend the Benefits Act.

After discussions with Senator Sasser's staff, the committee decided that a nationwide survey of EMS deaths was necessary to demonstrate the need for passing S.1479. The survey was conducted by the National EMS Clearinghouse in Lexington, Kentucky - NASEMSD's information exchange and research service. Since collecting information concerning state EMS activities is its specialty, the Clearinghouse was ideal for this survey.

The survey period began January 1, 1983, and ran through July 1986. The resulting returns from most state EMS offices have been compiled in a report titled "Deaths Occurring in EMS Personnel."

		Percent of Total
Total Deaths Reported	71	
Deaths by Traffic Accidents	28	39
Deaths by Air Ambulance Accidents	23	32
Deaths by Occupational Injury or Disease*	13	18
Deaths by Criminal Activity	6	8
Deaths of Unknown Origin	1	?

*This category of death includes, but is not limited to, cases of EMS personnel being exposed to and contracting a contagious disease such as hepatitis. Also included are deaths from hazardous materials.

The report does not contain all deaths because several states did not respond and others may have under-reported. However, for the first time, we have a better understanding of the most lethal threats to EMS and rescue personel.

The fact that most deaths occur because of ambulance crashes is not surprising, but knowing it points the way to further research and action to reduce the number of incidents. It is time to examine specific hazards and driving behaviors which are associated with serious ambulance crashes.

In 1976 there was little national public perception of EMS as a separate and distinct professional service. I think that was why EMS was overlooked when the Public Safety Officers' Benefits Act was enacted as an amendment to the Omnibus Crime Control and Safe Streets Act.

In 1986 the situation is different. EMS is established almost everywhere and is usually perceived as an important public safety service. The fact that people providing EMS are exposed to documented hazards and sometimes surrender their lives because of them establishes the issue. That issue is equity. Law enforcement officers and firefighters have received federal recognition for the hazards of their occupations by the Benefits Act. It is a matter of equity that EMS and rescue providers be likewise recognized.

Summary

1. EMS and rescue personnel are not covered by the PSOBA, and a large inequity thereby exists. The Milton Densord case demonstrates clearly that paramedics and firefighters can be working from the same stations and be exposed to similar risks, but the EMS people are not covered by the Act.

2. The national survey of EMS deaths indicates that EMS deaths average from 15 to 20 annually. Therefore, benefits funding for the PSOBA would only have to increase from 6 to 9 percent if EMS and rescue personnel are covered.

JBP/bb EMS 23

THE NATIONAL
EMS CLEARINGHOUSE

DEATHS OCCURRING TO EMS PERSONNEL

Ellen Hume
Associate Director
June, 1986
(UPDATED SEPTEMBER, 1986)

Cause of Death

Total Deaths Reported = 71

o Deaths by Traffic Accidents	= 28	Percent of Total	39%
o Deaths by Air Ambulance Accident	= 23	Percent of Total	32%
o Deaths by Occupational Injury/Disease Related*	= 13	Percent of Total	18%
o Deaths of Unknown Origin	= 6	Percent of Total	9%
o Deaths by Criminal Activity	= 1	Percent of Total	2%
Total	71	Total	100%

*This category of deaths includes, but is not limited to, cases of EMS personnel being exposed to and contacting a contagious disease such as hepatitis or AIDS, and other contagious diseases. Also included in this category is health attack suffered due to stress related to the job.

DEATHS OCCURING TO EMS PERSONNEL IN LINE OF DUTY

1983 - 1986 ----State by State

	Unknown	1983	1984	1985	1986	Total	Pre 1983
ALABAMA			1			1	
ALASKA				2		2	
ARIZONA	4					4	
ARKANSAS					1	1	
CALIFORNIA		1		1		2	
COLORADO				1		1	
CONNECTICUT						0	
DELAWARE						0	
FLORIDA			1			1	1
GEORGIA		1	1	1	1	4	1
HAWAII						0	2
IDAHO						0	
ILLINOIS			1	1		2	1
INDIANA						----	
IOWA						0	
KANSAS						----	
KENTUCKY						----	
LOUISIANA						0	
MAINE						0	
MARYLAND					2	2	
MASSACHUSETTS			?			2	
MICHIGAN						----	
MINNESOTA			1			1	
MISSISSIPPI					5	5	
MISSOURI						0	
MONTANA						0	
NEBRASKA	2		1			3	
NEVADA		3				3	
NEW HAMPSHIRE						0	-
NEW JERSEY						----	
NEW MEXICO			1	4		5	
NEW YORK					2	2	
NORTH CAROLINA			1			1	
NORTH DAKOTA						0	
OHIO						----	
OKLAHOMA		1		1		2	
OREGON		3				3	
PENNSYLVANIA		1				1	
RHODE ISLAND			1			1	
SOUTH CAROLINA						0	
SOUTH DAKOTA				1		1	
TENNESSEE			3			3	3
TEXAS						----	
UTAH						0	
VERMONT						0	
VIRGINIA				3		3	
WASHINGTON						0	
WEST VIRGINIA				1	2	3	
WISCONSIN		1	1			2	
WYOMING						0	
DC						0	
GUAM							
VIRGIN ISLAND						0	
TOTAL	6	11	15	16	13	61	10

DEATHS OCCURRING TO EMS PERSONNEL

The nature of the work performed by emergency medical service (EMS) personnel exposes them, on a regular basis, to personal danger. Occasionally, and unfortunately, death occurs to EMS personnel while in the line of duty. Police and firefighters are also exposed to a great deal of danger within their occupation. In response to occupational danger to these two professional groups, the U.S. government grants federal death benefits to families of police and firefighters. The same benefit is not, at this time, granted to EMS personnel.

The Public Safety Officer's Death Benefits Act grants death benefits to police and firefighters. This law, if amended will grant the same benefits to EMS personnel and will correct an obvious inequity in the current law.

A recent survey of all 50 states reveals the number and manner of deaths that occurred to EMS personnel while responding to emergencies. The survey reports that 57 deaths occurred to EMS personnel between January, 1983 and June 1986. There are seven states that were not able to determine how many, if any, deaths occurred to EMS personnel in the line of duty. These states are Delaware, Indiana, Kansas, Kentucky, Michigan, New Jersey and Texas.

To determine the probable number of deaths that occurred in these states between 1983 and 1986, an average number of deaths from reporting states was determined in relation to their population. Then the population of the non-reporting states was used to extrapolate probable number of deaths that occurred in these six states. (California and New York were not used in this extrapolation as only partial information on deaths in these states was received from the survey. Texas was also not included because information was received too late.) From this formula, the number of deaths in these six states is fourteen which increases the total number from 61 to 75.

Most deaths that occur to EMS personnel are the result of traffic accidents. Air ambulance accidents also account for a significant percentage of deaths and a few deaths are the result of occupational injury or disease related causes.

There are three tables that accompany this report. One table is a state by state table of the number of deaths that occurred to EMS personnel. Another table gives details of each death such as age of victim, manner of death, city of death, and so on. And finally, a statistical table gives information on causes of deaths that occurred to EMS personnel.

ACCIDENTAL DEATHS OCCURING TO EMERGENCY MEDICAL PERSONNEL
IN THE LINE OF DUTY

Nationwide -- 1983-1986

EMS Personnel Experiencing Death

State	Name/Address	Age	Title	Type of Personnel	Manner Deceased	Date of Death
Alabama	Gerald DeJohn Birmingham, AL	31	Fireman/EMT-B	Rescue Squad Personnel	Traffic Accident	March, 1984
Alaska	Maurine Malouf Juneau, AK	---	RN	Cert. Ambulance Personnel Paid	Air Ambulance Acc. Private Hosp. Based	Fall, 1985
	Mary Pat Habekle Juneau, AK	---	RN	Cert. Ambulance Personnel Paid	Air Ambulance Acc. Private Hosp. Based	Fall, 1985
Arizona	4 deaths reported to EMS Personnel. No further information Available					
Arkansas	Jeff Copeland Warren, AR	26	Firefighter Volunteer	Rescue Squad/1st Responder Volunteer	Occupational Injury	March, 1986
California	Name Unknown	27	EMT[1]	Cert. Ambulance Personnel Paid[2]	Traffic Accident	Oct., 1985
	Name Unknown	25	Paramedic	Cert. Ambulance Personnel Paid[2]	Traffic Accident	1983
Colorado	Mike Myers Grand Junction, CO	37	Pilot	Helicopter Pilot	Air Ambulance Acc. Private Hospital Bd.	December, 1985
Connecticut	No Deaths Reported during 1983-1986					
D.C.	No Deaths Reported during 1983-1986					
Delaware	No information available.					
Florida	Nelda Marie Campbell Century, FL	48	EMT	Cert. Ambulance Personnel Paid	Occupational Injury/ Disease Related/ Public Safety Agency Based	Sept., 1981
	Shawn O'Dare	30	Paramedic	Rescue Squad/First First Responder[5] Personnel	Occupational Injury/ Disease Related	October 1984
Georgia	Jack Bryant Lincolnton, GA	47	Advanced EMT	Cert. Ambulance Personnel Paid	Traffic Accident	April, 1986
	John Steed Waycross, GA	30	Advanced EMT	Cert. Ambulance Personnel Paid	Traffic Accident	1984

State	Name/Address of Death	Age	Title	Type of Personnel	Manner Deceased	Date of Death
Georgia	Tony Brown Colbert, GA	32	Cardiac Tech.	Cert. Ambulance Personnel Paid	Occupational Injury/ Disease Related	1981
	Charles D. Nelson Smyrna, GA	26	Cardiac	Cert. Ambulance Personnel	Air Ambulance Acci. Private heli. Srvc.	1985
	David Allen Sanford Milledgeville, GA	23	Basic EMT	Cert. Ambulance Personnel Paid	Other Occ. Injury/ Disease Related	1983
Guam	No Deaths Reported during 1983-1986					
Hawaii	Unknown	---	---	EMS Personnel	Air Ambulance Acc. Private Hosp. Based	February, 1980
	Mark Adolpho	---	MICT-Para.	Cert. Ambulance Personnel Paid	Air Ambulance Acc. Private hosp. Based	February, 1980
Idaho	No Deaths Reported during 1983-1986					
Illinois	Red Mielke Dolton, IL	52	Paramedic	Cert. Ambulance Personnel Paid	Occupational Injury/ Disease Releated	April, 1980
	Camella Kohl Spring Grove, IL	59	EMT-Para.	Cert. Ambulance Personnel Volunteer	Traffic Accident	December,1984
	Franklin Mercer Waukegan, IL	50	EMT-A	Cert. Ambulance Personnel Paid	Occupational Injury/ Disease Related	December 1985
Indiana	No Information on Deaths to EMS Personnel Available.					
Iowa	No Deaths Reported During 1983-1986					
Kansas	No Information on Deaths to EMS Personnel Available at this time.					
Kentucky	No Information on Deaths to EMS Personnel Available.					
Louisiana	No Deaths Reported During 1983-1986.					
Maine	No Deaths Reported During 1983-1986.					
Maryland	Gregory A. May Hagerstown, MD	31	CPL	Cert. Ambulance Personnel Paid	Air Ambulance Acc. Public Safety Agy. Based	January, 1986
	Carey S. Poetzman Manchester, MD	28	TFC (Att)	Cert. Ambulance Personnel Paid	Air Ambulance Acc. Public Safety Agy. Based	January, 1986

State	Name/Address of Death	Age	Title	Type of Personnel	Manner Deceased	Date of Death
Mass.	Elliot Strom Rohoboth, MA	35	MD/ Flight Physi.	Cert. Ambulance Personnel Paid	Air Ambulance Acc. Public Hosp. Based	July, 1984
	Billy Ray Sullivan Rohoboth, MA	35	Pilot	Non-Cert. Ambu. Personnel Paid	Air Ambulance Acc. Public Hosp. Based	July, 1984
Michigan	No Information on Deaths to EMS Personnel Available.					
Minn.	Ronald Potter Silver Bay, M	26	Driver	Cert. Ambulance Personnel Paid[2]	Traffic Accident	December, 1984
Miss.	Clarence Donal Medders Cleveland, MS	21	RLMT-A	Cert. Ambulance Personnel Paid	Traffic Accident	February, 1986
	Mark C. Applewhite Black Warrior River, AL	---	RN	Cert. Ambulance Personnel Paid	Air Ambulance Acc. Public Hosp. Based	June, 1986
	Mark Moreland Black Warrior River, AL	---	RN	Cert. Ambulance Personnel Paid	Air Ambulance Acc. Public Hosp. Based	June, 1986
	John Coyle Black Warrior River, AL	---	Pilot	Helicopter Pilot--Paid	Air Ambulance Acc. Public Hosp. Based	June, 1986
	John Kenneth Oswalt Cleveland, MS	22	Driver	Non-Cert. Ambulance Per. Paid	Traffic Accident	February, 1986
Missouri	No Deaths Reported During 1983-1986.					
Montana	No Deaths Reported During 1983-1986.					
Nebraska	Pat Beran	50	EMT-A1	Cert. Ambulance Personnel Volunteer	Traffic Accident	July 1984
	Two (2) additional deaths were reported to EMS Personnel. No further information on these deaths is available					
Nevada	Three deaths were reported in 1983. The deaths were the result of an air ambulance accident. No further information is available.					
New Hamp.	No Deaths Reported During 1983-1986.					
N. Jersey	No Information on Deaths to EMS personnel available					
New Mex.	Bruce Allen Richard Alamogordo, NM	45	EMT-B	Cert. Ambulance Personnel Paid	Traffic Accident	Sept., 1984
	Tim Brosch Albuquerque, NM	28	EMT-P	EMS Personnel - Paid	Air Ambulance Acc. Public Hosp. Based	January, 1985
	Sharon Devine Albuquerque, NM	32	RN	EMS Personnel - Paid	Air Ambulance Acc. Public Hosp. Based	January, 1985

New Mex.	Bruce Allen Richard Albuquerque, NM	25	Pilot	EMS Personnel - Paid	Air Ambulance Acc. Public Hosp. Based	January, 1985
	Rick Gustafson	30	EMT-B	Cert. Ambulance Personnel	Traffic Accident	August, 1985
New York	William Chapin NY	25	AEMT-3	Cert. Ambulance Personnel	Occupational Injury/ Disease Related	March 1986
	David Hoover	---	Unknown	Unknown	Traffic Acc.	March, 1984

State	Name/Address of Death	Age	Title	Type of Personnel	Manner Deceased	Date of Death
N. Caro.	Steve Richie Winston-Salem, NC	33	EMT-Inter.	Cert. Ambulance Personnel Paid	Air Ambulance Acc.	Sept., 1985
N. Dakota	No Deaths Reported During 1983-1986					
Ohio	No Deaths reported during 1983-86.					
Oklahoma	Tommy B. Brown Altus, OK	47	EMT	Cert. Ambulance Personnel Paid	Occupational Injury/ Disease Related	Sept., 1985
	Name Unknown Texas County, OK	---	EMT	Cert. Ambulance Personnel Volunteer	Traffic Acc.	1983
Oregon	Steve Trosen Medford, OR	28	Paramedic	Rescue Squad/1st Responder Personnel Paid	Air Ambulance Acc. Volunteer Medevac	February, 1985
	George E. Milligan Medford, OR	62	Chief Pilot	Rescue Squad/1st Responder Personnel Paid	Air Ambulance Acc. Volunteer Medevac	February, 1985
	Dr. Beneke Medford, OR	---	Co-Pilot	Rescue Squad/1st Responder Personnel Paid	Air Ambulance Acc. Volunteer Medevac	February, 1985
Penn.	Thomas Burnatoski, Jr. Butler, PA	25	EMT	Cert. Ambulance Personnel Paid	Traffic Accident	July, 83
Rhode Is.	Arthur L. Kane Coventry, RI	59	Fire Chief	Cert. Ambulance Personnel Paid	Occupational Injury/ Disease Related	August, 1984
S. Caro.	No Deaths Reported During 1983-1986.					
S. Dakota	Gary Goertz Sioux Falls, SD	29	EMT-P	Cert. Ambulance Personnel Paid	Traffic Accident	October, 1985
Tennessee	Freddie T. Robbins Dresden, TN	33	EMT-A	Cert. Ambulance Personnel Paid	Traffic Accident	December, 1982

State	Name/Address of Death	Age	Title	Type of Personnel	Manner Deceased	Date of Death
Tennessee	Larry O. Gilliam Dresden, TN	37	EMT-A	Cert. Ambulance Personnel Paid	Traffic Accident	December, 1982
	Joe W. Green Dresden, TN	25	EMT-A	Cert. Ambulance Personnel Paid	Traffic Accident	December, 1982
	Milton A. Densford Memphis, TN	41	EMT-P	Cert. Ambulance Personnel Paid	Traffic Accident	June, 1984
	Robin Cornett Mountain City, TN	29	EMT-A	Cert. Ambulance Personnel Volunteer	Traffic Accident	July, 1984
	Rich Milsap Mountain City, TN	28	EMT-A	Cert. Ambulance Personnel Volunteer	Traffic Accident	July, 1984
Texas	No Deaths Reported During 1983-1986.					
Utah	No Deaths Reported During 1983-1986.					
Vermont	No Deaths Reported During 1983-1986.					
Virginia	Norman G. Kirk Big Stone Gap, VA	---	Paramedic	Rescue Squad/1st Responder Personnel Paid	Traffic Accident	April, 1985
	Barry Pendrey Roanoke, VA	---	Paramedic	Rescue Squad/1st Responder Personnel Paid	Criminal Activity	February, 1985
	James Lowell Griffin Ridgeway, VA	---	EMT	Rescue Squad/1st Responder Personnel Paid	Disease Related	February, 1985
Vir. Is.	No Deaths Reported During 1983-1986.					
Wash.	No Deaths Reported During 1983-1986.					
W. Virg.	Steven Dwayne Chapman Milton, WV	27	MICP	Cert. Ambulance Personnel Volunteer	Traffic Accident	April, 1986
	Donald L. Kemmerer Anmoore, WV	28	Captain	Cert. Ambulance Personnel Volunteer	Occupational Injury	May, 1985
	Bill Vangilder Fairmont, WV	40	EMT	Rescue Squad/1st Responder Personnel Volunteer	Traffic Accident	April, 1986

State	Name/Address of Death	Age	Title	Type of Personnel	Manner Deceased	Date of Death
Wisc.	Debra Herter New London, WI	32	EMT-B	Cert. Ambulance Personnel Volunteer	Traffic Accident	July, 1984
	Barry V. Johnson Monona, WI	42	Lieutenant	Rescue Squad/1st Responder Personnel Volunteer	Traffic Accident	June, 1983
Wyoming	No Leaths Reported During 1983-1986.					

The National Association Of State Emergency Medical Services Directors

Iron Works Pike, P.O. Box 11910, Lexington, KY 40578, (606) 252-2291

THE RESPONSE OF THE NATIONAL ASSOCIATION OF STATE EMERGENCY MEDICAL SERVICES DIRECTORS (NASEMSD) TO QUESTIONS FROM SENATOR ARLEN SPECTER

1. The National Association of State Emergency Medical Services Directors (NASEMSD) strongly supports S.1479. The inequity of excluding EMS personnel from coverage of the Public Safety Officer's Benefits Act has been well documented (see attachments).

   Adding EMS personnel to the PSOBA would not significantly increase the program's budget because NASEMSD's death survey (attached) indicates that there are 15 to 20 EMS deaths annually nationwide. Passing S.1479 would remove a major inequity.

2. The funding mechanism to support expanded benefits under S.2499 has the advantage of not drawing from general appropriations, but instead creates its own revenue source. As long as it will reliably produce the necessary revenue, NASEMSD will support this measure.

3. NASEMSD supports S.1479 to expand the PSOBA to include EMS personnel who die in the line of duty. A major inequity exists because of the EMS exclusion and S.1479 will correct that.

   NASEMSD supports S.2499 and is pleased that the expanded benefits are derived from a new revenue source.

NASEMSD is not familiar with other proposals to amend P.L. 94-430.

JBP/gh 3/20

Attachment

Senator BROYHILL. The next witness is Mr. Martin, but I would like to hold, if I could, for a few minutes.

[Pause].

Senator BROYHILL. I welcome Senator Riegle who is the sponsor of S. 2499. Senator Riegle, we are just delighted to have you here to submit your testimony and also to introduce a distinguished constituent of yours from Michigan.

STATEMENT OF HON. DONALD W. RIEGLE, JR., A U.S. SENATOR FROM THE STATE OF MICHIGAN

Senator RIEGLE. Thank you, Mr. Chairman.

I must say at the outset it is a special feeling for me to have the opportunity to appear before you because we served for many good years together in the House of Representatives and have had a very fine personal relationship over that length of time.

I am delighted that you are serving here as a colleague in the Senate, and it is something special to me to have the chance to appear before you today in your capacity as a chairman here in the Senate.

Senator BROYHILL. Thank you very much.

Senator RIEGLE. Maybe I should invite Mr. Martin to join me, and I will make a brief statement. I appreciate the courtesy of the committee in adjusting the time here so that I might be able to come and speak at this time.

Mr. Chairman, I am very pleased today to have with me Mr. Dennis Martin who is a constituent of mine from Saginaw, MI, who is in town to testify on the bill that you mentioned, S. 2499, which is a bill that I have introduced.

Dennis serves as the president of the American Federation of Police and has been actively involved, as the organization has, in building support across the Nation for this legislation. I would like to just briefly summarize it and its supporting rationale. S. 2499 would increase the benefit that is payable with respect to the death of a public service officer to a figure of $100,000. It would also allow a parent to be eligible to receive that death benefit even if the deceased officer is no longer a dependent that would be thought of in the case with those parents.

Last, and very important, the increased benefit would be self-financed through the establishment of a special trust fund, which is really a key aspect of this legislation. This trust fund would be created by a $500 penalty that would be assessed to every individual in the future who is convicted of a Federal felony. In other words, we would create the fund to pay this benefit in the case of a loss of life while on duty by assigning that cost to the individuals who in fact are committing and are convicted of committing the Federal crimes across this country.

I think it is the kind of linkage that is proper for us to establish. Our public service officers risk their lives each day for us as a Nation. The risk is documented by figures from the National Association of Chiefs of Police. According to that association, a police officer is killed every 3 days in our country. It is a very sad and disturbing record of loss of life by our law enforcement personnel.

More than 260 police officers, correction officials and firefighters were killed in the line of duty in 1985. So I think this death benefit increase is long overdue. It has been frozen now for many years, and that, coupled with the fact of the creation of the trust fund that would finance this very important survivor's benefit by a penalty that is assessed against those who commit Federal felonies is a breakthrough that the country will feel that it can support. I would hope that this committee and the full Senate would feel that it could support this measure.

Having said that, I now want to introduce Dennis Martin. You will find him an exceptionally fine witness. As he begins, I will have to excuse myself as I am due before another committee at this time as well.

Senator BROYHILL. Before recognizing Mr. Martin, who is president of the American Federation of Police and National Association of Police, from Saginaw, a constituent of yours, I would like to ask you one question before you leave.

Senator RIEGLE. Please do.

Senator BROYHILL. The administration witness earlier this morning testified in opposition to your bill, and I want to, in fairness, give you the opportunity to respond.

Their argument is that the intent of this program is to supplement local efforts in the area of giving benefits to those who have died in the line of duty. Their argument is that this increase would supplant rather than supplement state benefits, and that it would have the effect of encouraging States to reduce their compensation benefits.

Would you want to respond to that argument?

Senator RIEGLE. Yes, I would, Mr. Chairman, and I appreciate your giving me the opportunity to do so.

I think the crime problem in America is a national problem. I think the threat to our law enforcement officials is a coast-to-coast threat. It occurs every minute of every hour of every day. It has nothing to do in a sense with whatever jurisdiction a law enforcement person might find themselves. It can be anywhere or any time in the line of duty.

And I think we are beginning to see, if I may draw a parallel with respect to the drug problem, where we are about to see some new national initiatives because this is a national problem. Now, one might say in the area of the drug effort that we should let us leave it up to the local communities as well. But we are finding that that has not been sufficient. I do not think it is sufficient here.

The next point I would make is that we are now cutting back dramatically on support to local units of government in other Federal Government expenditure reductions that are underway. One of the most important right now is the scheduled ending of revenue sharing.

In my home State of Michigan, many communities, in fact, more than half, use their Federal revenue sharing money to support local law enforcement efforts, police and fire, particularly. So the local communities are finding for the reason of the withdrawal of Federal funding programs that they have had in the past, also for reasons of the increase in costs of the liability insurance and other things, that they are squeezed. And I would suspect that that pat-

tern is being felt in North Carolina, in communities of different sizes, as it is in Michigan and, I know, across the country.

So if you have a national problem and you have a way to finance the solution by actually putting the burden of paying for this program on the shoulders of the people who commit the crimes in the country, it seems to me that that is a very sound way to do it. It sends a message out in two directions. It says to our law enforcement people that we support them, we view them as a national asset. We know they put their lives on the line, and we are standing behind them in a kind of commitment to help their families, should they lose their lives in the line of duty.

We also say to the criminal element in this country that commit the Federal felonies that not only are you going to be found and punished with respect to the normal course of law enforcement punishment, but we expect you to contribute financially into a fund that will accumulate over a period of time so that the cost of providing for these families of law enforcement people who lose their lives on duty can be met and not be an expense that has to come out of the pocket of the taxpayer.

Senator BROYHILL. What is the estimated size of that fund? Do you have it?

Senator RIEGLE. It is about $12 million a year, the figure that we have been working with. The appropriation program for the current fiscal year is $11.4 million. So our feeling is, just to give you the math, on the $500 penalty for everyone that is convicted of a Federal felony, according to the administrative offices of the U.S. courts, there have been an average of about 25,000 convicted Federal felons over the last 3 years. So that penalty, if it were assessed, would bring in a figure of about $12.5 million for the trust fund.

So if you put the $12.5 million in from this new funding source as against what we have been appropriating, the $11.4 million, it would give us full funding, and it would allow us to make this increase in the benefits.

So this is a self-financing program, but it puts the cost of the financing on the lawbreaker and on the convicted felon and, in turn, provides some small measure of help and support for the remaining family of a law enforcement person who loses his life in a violent act in the line of duty.

So I would hope the administration would take another look at this because I think the design of our approach here is consistent with much of what I have heard the administration say. I would hope that their opposition is not just a sort of a reflexive opposition to anything that is new and a little different.

I think if we could put this out for a national referendum today and the American people had the chance to vote on it, I think we would roll up a margin of 90 percent plus, because I think the idea is sound and I think the people support it.

Senator BROYHILL. I thank you very much for your testimony today, and we will now recognize your constituent, Mr. Martin, to summarize his testimony which he has submitted to the committee.

STATEMENT OF DENNIS MARTIN, PRESIDENT, AMERICAN FEDERATION OF POLICE, SAGINAW, MI

Mr. MARTIN. Honorable Chairman Broyhill, my name is Dennis Martin, and I am the national president of the American Federation of Police, and I am also representing the National Association of Chiefs of Police.

I am here today to attempt to speak for the 2,312 law enforcement officers who have been killed in the line of duty since 1960. For those who fall victim almost daily to criminals, to those responding to calls for help, and to those who have or will have to sacrifice their lives in an effort to protect life and property. I can only hope to speak with such power as would cause your committee to approve a bill that has been introduced both in the Senate by my own Senator, Donald Riegle, and in the House of Representatives by Robert Traxler, also of Michigan.

We seek to have you vote to increase the line-of-duty death benefit passed 10 years ago that would assist the family of those officers killed in the line of duty from $50,000 to $100,000, and increase the benefit in the future based on the cost of living index.

Annual wages for a police officer today for a patrolman of the lowest rank averages somewhere near $22,000 a year. Ten years ago, that sum was about $12,000. That payment available today is, at best, 2 years' pay. But that does not cover the cost of burial expenses, medical services, stress to the family, nor the loss of a loved one. The fact is, who can put a price tag on a human life?

A few months ago I had the honor of seeing the bill introduced. It would raise the moneys from fines of felons in jail, not taxes, paying to some degree the victims of the crime. This bill was brought to the Senate and the House during Police Week and filed just before Police Memorial Day on May 15 of this year. Since that day we have lost many more fine officers all over this Nation.

I serve as one of the trustees of the American Police Hall of Fame and Museum. I can tell you that too many officers are being lost in the line of duty due to the influx of drugs and drug-related crimes. Two agents of the FBI were slain in Miami, FL, in a shootout that left five others wounded. Unfairly, I am advised, while one agent's family will receive the $50,000 benefit, the other unmarried agent's parents receive nothing. In fact, no moneys will be paid to his estate under the Public Law 366 as it is written today. That is another correction we plead with you to correct.

I can name city after city, town after town with the names of officers who have been killed. Their families deserve more aid, and parents should not be excluded just because they are not dependents of a son or daughter.

It seems unjust when we are willing to pay for the best possible prison facilities and care of the convicted killers, with an average cost to taxpayers of $38,000 a year, yet we are only willing to pay $50,000 to a police officer's family and nothing more.

I spoke earlier of the fact that one of the FBI heroes that died may not be eligible for the $50,000 you already authorize under Public Law 366. The law says that for a parent to obtain assistance they must show that the officer was providing them with help as dependents. If he was not married, left no children, and his parents

were hard-working, independent persons, the benefit is not payable to his mother or father. Now, that does not make sense in this day and age. Their loss is as deep as that of anyone else.

The FBI reports that the majority of officers killed are under the age of 26 and die on Thursday nights. I have a wife and four children, but many officers today marry late in life. The parents work hard to educate them and encourage them into police service. If no spouse or children are heirs, why should parents be excluded because of the word "dependent"? I can assure you that the loss is just as terrible for a dependent family as one that is working.

I have brought with me Mrs. Irene Sudano from Niles, OH. Irene is the chairman of the Committee of Survivors of Law Enforcement Officers killed in the line of duty. Her son, John Utlak, was killed in 1982 while working as an undercover narcotics officer. Since then, she has dedicated herself to assisting other police families who suffer the tragic loss. Mrs. Sudano will not even accept money for postage or other expenses of any kind. Her voice is raised not for herself, but to speak as the mother of one of our Nation's finest who was lost in our war against drugs.

Of all the people you may hear today, Mrs. Sudano is the voice that rings with experience in dealing with the personal tragedy that I feel is very important. For Mrs. Sudano, the world stopped on December 8, 1982, and her life was forever changed. Mrs. Sudano seeks to help others, and the passage of this bill will help other mothers and families. Thousands of officers have written to their elected representatives in support of this bill as well.

As national president of the American Federation of Police, and in the name of this association, and with the support of the National Association of Chiefs of Police, I ask that you give your favorable consideration to this bill as the best Christmas gift you could give the 600,000 men and women who make up the law enforcement community.

[The prepared statement follows:]

PREPARED STATEMENT OF DENNIS MARTIN

Dear Senators, Fellow Officers, Ladies and Gentlemen:
I am here today to attempt to speak for the 2,312 law enforcement officers who have been killed in the line of duty since 1960. For those who fall victim almost daily to criminals, to those responding to calls for help, and to those who have or will have to sacrifice their lives in an effort to protect life and property. I can only hope to speak with such "power" as would cause your committee to approve a bill that has been introduced both in the Senate by my own Senator Donald Riegle, and in the House by Rep. Robert Traxler, also of Michigan. We seek to have you vote to increase the line of duty death benefit passed ten years ago that would assist the family of those officers killed in the line of duty from $50,000 to $100,000, and increase the benefit in the future based on the cost of living index.

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I serve as one of the Trustees of the American Police Hall of Fame and Museum. I can tell you that too many officers are being lost in the line of duty due to the influx of drugs and drug related crimes! Two agents of the FBI were slain in Miami, Florida in a shoot out that left five others wounded. Unfairly, I am advised, while one Agents family will receive the $50,000 benefit, the other unmarried Agents parents receive nothing! In fact, no monies will be paid to his estate under P.L. 366 as it is written today. That is another correction we plead with you to correct! I can name city after city, town after town, with the names of officers who have been killed. Their families deserve more aid, and parents should not be excluded just because they are not "dependants" of a son or daughter!

It seems unjust when we are willing to pay for the best possible prison facilities and care of the convicted killers - with an average cost to taxpayers of $38,000 a year. Yet, we are only willing to give $50,000 to a police officers family - and nothing more!

I beg of you to increase that to $100,000 now! Consider the children of these officers. Very recently in Tucson, Arizona, an officer was shot and killed. He left two boys, one too young to even know what was happening except that dad would never be back! They called upon our advisory board of movie and television stars to explain what happened to dad. Let me read you excerpts of the letter from his department when we reached out:

> Dear Mr. Arenberg:
>
> I am writing to report the results of your efforts in regards to providing some emotional support to the Pike children. The statements of concern which were

given to the Fike family helped them to understand the altruistic meaning of Bob Fike's murder. They now understand that their dad wasn't a meaningless crime statistic, but rather paid the price for our collective freedom by placing himself between the "bad guys" and ourselves. Those famous and caring people on your committee provided empirical evidence that the death of any "cop" is a matter of concern for all Americans.

The following loving people helped Nancy, Jimmy and Jeff by sending photographs, letters, etc.

Norm Crosby	Ed McMahan
Bo Derek	Michael Moriarty
Elinor Donahue	Arnold Palmer
Steve Guttenberg	Dale Robertson
David Hasselhoff	Robert Stack
Florence Henderson	John Unitas
Virginia MacWatters	Bobby Unser
Gerald Mathers	Lindsay Wagner
Peter Weller	

Steve Guttenberg was the first to respond, as I received his note to the family shortly after I received your letter.

David Hasselhoff and his manager, Buddy, took the family to the Phoenix 200 Indy car races. They provided them with memories which will, to some small degree, offset the tragic memories of Bob Fike's death. The boys felt "important" and cared about from their idol "Michael Knight."

Dale Robertson and John Unitas wrote very personal letters to the boys which I and the Fike family appreciated very much.

Norm Crosby, Lindsay Wagner and Robert Stack made personal telephone calls. Mr. Stack was the first committee member to personally intervene in the family's grief process, by providing sincere emotional support and encouragement to Nancy. Lindsay Wagner telephoned the boys and brightened up their day.

I never really expected any response from those "stars" because I was convinced that only other law enforcement officers would <u>really</u> care about a dead cop. I have a new perception of things because of your organization's intervention.

My request for your help was motivated by the desperation I felt, when I looked into the faces of the boys at their dad's funeral. The affect which your organization's committee members had upon those faces was wonderful! I am a witness to the good work which you do, and I will remain in debt to your kindness.

Sincerely, BRUCE KELDERHOUSE

I spoke earlier of the fact that one of the FBI heroes that died may not be eligible for the $50,000 you already authorize under PL 366. The law says that for a parent to obtain assistance they must show that the officer was providing them with help as dependants. If he was not married, left no children, and his parents were hard working independant persons, the benefit is not payable to his mother or father. Now that does not make sense in this day and age. Their loss is as deep as that of any one else.

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I have brought with me Mrs. Irene Sudano, from Niles, Ohio. Irene is Chairman of the Committee of Survivors of Law Enforcement Officers killed in the line of duty. Her son, John Utlac, was killed in 1982 while working as an undercover narcotics officer. Since then she has dedicated herself to assisting other police families who suffer the tragic loss. Mrs. Sudano will not even accept money for postage, or expenses of any kind. Her voice is raised not for herself, but to speak as the mother of one of our nations finest who was lost in our war against drugs.

Of all the people you may hear today, Mrs. Sudano is the voice that rings with experience in dealing with personal tragedy that I feel is very important. For Mrs. Sudano, the world stopped on December 8th, 1982, and her life was forever changed. Mrs. Sudano seeks to help others and the passage of this Bill will help other mothers and families. Thousands of officers have written to their elected representatives in support of this Bill as well.

As President of the American Federation of Police, and in the name of this association; and with the support of the National Association of Chiefs of Police, I ask that you give your favorable consideration of this Bill as the best Christmas gift you can give the 600,000 men and women who make up the law enforcement community.

Thank you for this opportunity to come before this committee and to express my views.

DENNIS RAY MARTIN

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Caldwell, N.J.

PRIVATE SECURITY LIAISON
Sec. Off. Tom Pollard Ret.
San Francisco, CA

CB RADIO PATROL
Instr. Gene R. Hubler
Cucamonga, CA

POLICE SURVIVAL & TACTICS
Inspector U.S. Marshal Bill Scott
New York, NY

September 25th, 1986

Mr. Ron Parraguirre, Counsel
Subcommittee on Criminal Law
U.S. Senate
Committee on the Judiciary
Washington, D.C. 20510

Dear Mr. Parraguirre:

I am pleased to have the opportunity to respond to the questions raised by Sen. Arlen Specter regarding the recent hearings on S917, S1479 and S2499, that would amend Public Law 366, the Public Safety Officers Act.

1. Our central interest lies with the Bill presented by Sen. Donald Riegle, that would increase the present death benefit from $50,000 to $100,000, and include parents of the officer if he left no other survivors, and strike the "dependancy" requirement. Clearly the testimony of Mrs. Irene Sudano and myself on behalf of S2499 shows that in the past ten years, the test of time and the Administration of the Bill and Public Law needs what could be called "fine tuning".

We believe that the Congress has always intended to lead with aid to the families since every police officer is dedicated to enforcing all the laws and defending the rights of our citizens.

The loss of any officer, federal, state, county or local, from any area, is the loss of a thin blue line that keeps this nation safe, and it is a day of national mourning as we note the loss of any brother officer across this nation.

Our expertise lies with what is good for law enforcement officers. Having kept a record of the loss of these officers since 1960, we have listed more than 2,300.

We feel that the Bills introduced by the Fire Fighters are best reflected by their own representatives. We do make a point that because of extreme stress, the life of a police officer is, upon retirement, reduced by five years or more! Since we are only seeking aid for those

killed in the line of duty, we cannot see how anyone could set a "price tag" on the value of their lives with ease. We simply concluded that after ten years perhaps Congress could see that the initial award set to aid a family has been reduced by economic factors. This is simply an adjustment after ten years.

Therefore, we hope that the Committee will understand that equity as well as humanity toward the family, is the basis for our statements and our recommendation.

2. Multi-millions are being collected under the RICO act, and it would appear that funding from fines or additional fines collected without too much difficulty. Prisoners could be charged the fine. If not paid by the time of their normal release, be added as a penalty of added time to work to pay the fine.

An alternative to felons paying fines would be the issuance of a special documentary stamp on the purchase of firearms to be used solely for payment of added funds for police families. 24 million firearms are sold each year, and a special stamp or tax might be acceptable. In cases for fire fighters just a documentary stamp on fire extinguishers would cover the costs toward their part of the fund, for example.

Another possibility might be to add a $1 to all traffic fines collected by the states to be sent to the fund. Over 25% of the officers killed are a result of traffic fatalities and chases.

3. The family survivor of an officer killed in the line of duty should not be asked to pay a tax for giving up his life. That is certainly unjust as we are speaking of possibly 100 officers families a year. The family needs every penny it can obtain to sustain the loss while children are being raised and completing school. Eventually, if a wife may remarry, as is often the case, that tax status would change. When the children are in the working force and out of school they should pay taxes. Parents that may no longer be able to work should be exempt and would exist on retirement income. If however, they returned to the work force their regular income should be taxed.

Respectfully submitted,

Dennis Ray Martin

DENNIS RAY MARTIN
National President

Senator BROYHILL. Mrs. Sudano, we are delighted to welcome you to the table and have your testimony now as well. You can keep your seat, Mr. Martin.

We want to welcome you to the committee and we are glad to receive your testimony.

STATEMENT OF IRENE SUDANO, NILES, OH

Mrs. SUDANO. Thank you, Mr. Chairman.

Senator Broyhill, staff, ladies and gentlemen, my own and much-loved son, Niles police officer John A. Utlak—"Johnny" to everyone who knew and loved him—was murdered in the early evening on December 8, 1982, while working undercover narcotics. He was shot twice in the head, robbed, and left to die by two young drug dealers. His body was discovered in a snow-covered field some 12 hours later. He was 26 years of age. He was never married.

As a mother, I asked, "Why my Johnny?" He was a handsome young man, a devoted son, a loving brother, an outstanding athlete. Johnny loved his profession too much. He was a dedicated officer. He was highly respected among his superior and fellow officers and within the community. But most police officers are. Who else would take such risks for so little money and for insults as well as danger? Only dedicated, courageous men and women.

Police work is a high risk profession that too many times calls for the ultimate sacrifice. Over $1.7 million was spent in legal fees for these two cop-killers' defense at the expense of the taxpayer. I am a taxpayer so I helped to pay for the defense of my son's killers. This I resent. It cost the State of Ohio and Trumbull County $1.7 million to bring them to trial, convict and sentence them. Both were found guilty. They were sentenced to life with no possible parole for 30 years.

It costs the taxpayers $38,000 a year to feed and house and to keep these animals behind bars. My son is dead. His killers live on. Time and time again, we see short-term sentences given to the criminals while we, the survivors, serve a lifetime sentence of grief, anger and violation.

Compared to what it costs taxpayers to defend these criminals, and to the costs after they are incarcerated, a $50,000 benefit paid to the survivor of an officer killed in the line of duty is not justified. This bill is now 10 years old. Since its inception, I realize that these benefits have aided families, but the benefit has lost much of its value due to the decline of the dollar, inflation, and the increased costs of living.

Public Law 366 offers assistance to surviving parents of unmarried officers only when you can show proof that your son or your daughter, as was my case, contributed to my support at the time of his death. I would assume some family situations are this way, but it is rare. According to the last report of the FBI, a police officer is killed every 3 days. His or her average age is 25 years old.

I sincerely ask the committee the utmost consideration that this dependent clause be deleted from this benefit. Several police officers have expressed to me their concerns in the passage of this bill. With a $100,000 benefit being paid to their families, in the event of

their death, they feel some relief that their family's needs will be taken care of.

So very much is lost when an officer is killed. Widows facing life alone, children never knowing their fathers or mothers, some children having emotional problems adjusting to their loss, while not quite understanding it all. Parents of unmarried officers live in grief. Their grief is compounded when they think of the years that their son or daughter will never live to enjoy. The wife or husband he or she will never have. The grandchildren that we will never have. A killer always takes more than one victim. Statistics do not take into account the human suffering that we survivors must endure with the loss of a loved one.

Just how do you measure the sacrifice? It cannot be measured. It is indeed impossible. I would willingly give my life to have my son here today. I am sure that those of you with sons or daughters share these very same feelings. While monetary benefits can never compensate for the loss of a loved one, financial assistance will lessen the sudden economic burdens which often accompany these tragic, senseless deaths. Can anyone not agree that $100,000 is the minimum benefit that we must provide to the survivors of the public safety officers?

Mr. Chairman, Senator, I urge you to lend your support on this vital and much needed legislation. This bill would aid and benefit our survivors in the future, and tragically, we know that there will be many.

Most people have no idea how often and how many officers are killed. We do reach out to survivors to support their loss. It is not an easy task. Their sorrow is ours. Every officer we see is a symbol of law and order and may well be the next victim of a crazed killer.

On behalf of the American Police Hall of Fame and the National Association of Chiefs of Police, I ask only for your fairness in meeting our Nation's obligations to its police families. Those brave, dedicated officers gave their lives for you and I.

I sincerely thank each and every one of you for the privilege and honor to be invited here today. On behalf of all the Johnnys who have made the supreme sacrifice, and for their survivors, I thank you for giving me the opportunity to speak on this vital matter.

Senator BROYHILL. Thank you very much, Mrs. Sudano.

Any other comments, Mr. Martin?

Mr. MARTIN. No.

[The prepared statement follows:]

PREPARED STATEMENT OF IRENE SUDANO

MR. CHAIRMAN, SENATORS, STAFF, LADIES AND GENTLEMEN:
On December 9, 1982, my world came to an end. My only and much loved son, Niles Police Officer John A. Utlak, "Johnny" to everyone who knew him and loved him, was murdered in the early evening on December 8, 1982, while working undercover narcotics. He was shot twice in the head, robbed and left to die by two young drug dealers. His body was discovered in a snow covered field some 12 hours later. He was 26 years of age and never married. We were not notified of his death until 7:30 AM December 9, 1982.

As I sit here, I beg you to understand if I fumble with my words. My loss is beyond comprehension. Only someone who has lived through such a tragedy can appreciate its full horror. It is a pain that stabs at my heart and soul, and one that I will take to my grave. I buried my son, I can never bury my pain.

When the two officers came to inform us of Johnny's death, I knew what they came to tell me. I knew I no longer had a son. I lived in fear for 5 years and three days. That was how long he was a member of the Niles Police Department. The knock finally came. When I heard the officers' say, "He's dead," above my husband's crying and screaming, I lost all senses. I felt the blood drain from my body like electricity. My face, mouth and hands became numb. I had no feeling.

As a mother, I asked, "Why my Johnny?" He was very handsome, a devoted son and a loving brother, an outstanding athlete. He was awarded two gold medals at the Ohio Police Olympics in June of 1982. He was looking forward to participate in the International Police Olympics. He was a well educated young man, majoring in Criminal Justice. While in the R.O.T.C. program at Youngstown State University, he was awarded the highest honor ever bestowed on an underclassman. "Outstanding Cadet of The Year." This was the first time this award was not awarded to a senior.

He was so young and strong and filled with promise. On this one boy, God lavished so many talents that could have enriched the world. He had already received so many honors, and there were so many honors to come. Why then, in our agony we ask, why him? Why not some dope-head, rioter, thief, child molester?

Johnny loved his profession <u>too</u> much! He was a dedicated officer. He was highly respected among his superiors and fellow officers and within the community. Most police officers are. Who else would take such risks for so little money and for insults as well as danger? Only dedicated and courageous men and women.

At Johnny's funeral, there were over 800 law enforcement officers who traveled from all over the state of Ohio, and neighboring Pennsylvania to pay their respects to their slain comrade. They offered my family their condolences. Some cried as I cried. As small as Niles, Ohio might be, when a brother officer is killed, there is a flash on teletypes from the FBI that an officer has been killed, and the families of police officers unite. It brings home the terrible reminder that police work is a high risk profession that too many times calls for the ultimate sacrifice.

My beloved sons' two killers were apprehended in Cheyenne, Wyoming. One stole his mothers' car, the other stole $10,000.00 worth of jewelry from his father. When both were extradited to Ohio, they were found by the court to be indigent. They both had court appointed attorneys. Trumbull County's best criminal attorneys. One was appointed two attorneys, while the other was appointed one. Each had a separate trial by jury. They were flown back to Ohio, from Cheyenne, Wyoming escorted by the Trumbull County Sheriff's deputies. Cheyenne Police Officers had to be flown to Ohio on several occasions to testify at each trial. Law enforcement officers and court officials praised the Cheyenne police for their expertise in police work, and for their professional and flawless manner in their investigation in this most vital case.

Over 1.7 million dollars was spent in legal fees for these two cop killers defense, at the expense of the taxpayer. I am a taxpayer, so I helped pay for the defense of my sons' killers. This, I resent. It cost the state of Ohio and Trumbull County 1.7 million dollars to bring them to trial, convict and sentence them. Both were found guilty. They were sentenced to life terms with no possible parole for 30 years. It costs the taxpayers $38,000.00 a year to house and feed them and to keep these animals behind bars. My son is dead. His killers live on.

Ohio law states that a 17 year old cannot get the death penalty. But, a 17 year old can kill and take a life. He took my sons' life. Justice? I say no. Both had a court trial with lawyers fighting for their lives, judge and jury. Johnny's killers were his lawyers, judge and jury.

Time and time again we see short term sentences given to the criminals, while we, the survivors serve lifetime sentences of grief, anger and violation.

Compared to what it costs taxpayers to defend these criminals and the cost after they are incarcerated, a $50,000.00 death benefit paid to the survivor of an officer killed in the line of duty is not justified. This bill is now ten years old. Since its inception, I realize these benefits have aided families, but the benefit has lost much of its value due to the decline of the dollar, inflation and the increased cost of living.

Public Law 366 offers assistance to surviving parents of unmarried officers only when you can show proof that your son, as was my case, contributed to my support at the time of his death. Of course the same would apply to a daughter as we have lost many female officers. I would assume some family situations are this way, but it is rare. According to the last report of the FBI, a police officer is killed every 3 days. His or her average age is 25. Many officers are not married at this age, and the law states that unless parents are dependent on that officer at the time of his or her death, they are not eligible. This is discrimination. Who is to say that later in life a parent or parents may become dependent on the son or daughter they lost. I personally know of four parents of two officers who were killed in the line of duty. At the time of their sons' deaths, they did not qualify. Two of the parents are now existing on a small meager pension. The other two parents are both in poor health since the loss of their son, and the father is forced to retire, because of heart problems. They all feel as though their sons' sacrifice meant nothing. The cold, hard facts are, that a married officers life is worth more than that of an unmarried officer. Therefore, I sincerely ask your utmost consideration that this dependent parent clause be deleted.

When I learned about this Bill, I knew that $50,000.00 for a family was hardly enough money today. Many wives would have to leave their children and home to go out and get jobs. Many may have no job skills or training. Children may not receive the necessities in life which their father would have provided. Funeral expenses, unpaid home mortgages, medical bills, orthodontist bills, etc., can be staggering to the widow or widower and their children who are left to face this. Many police officers have to work extra jobs to make ends meet. Several police officers have expressed their concern in the passage of this bill. With a $100,000.00 benefit being paid to their families, in the event of their death, they feel some relief that their families needs will be taken care of.

My husband, daughter and I, and some close relatives attended the 1983 National Peace Officers Memorial Service in Washington, D.C. to pay honor to my son and all of his fallen fellow officers. My husband and I, again, attended the 1986 Memorial Service. I lost control of my emotions. It was a repeat of what I saw in 1983. Parents devastated, young widows with small children, two held infants in their arms that were no more than 3 or 4 months old. Pregnant widows. A heartbreaking sight. So very much is lost when an officer is killed. Widows facing life alone. Children never knowing their fathers' or mothers'. Some children having emotional problems adjusting to their loss, while not quite understanding it all. Parents of unmarried officers live in grief. This grief is compounded when they think of the years their son or daughter will never live to enjoy. The wife or husband he or she will never have, the children they will never know, the grandchildren we will never have. A killer

always takes more than one victim. Statistics do not take into account the human suffering we survivors must endure with the loss of a loved one.

Just how do you measure the sacrifice? It can't be measured. It is indeed impossible. I would willingly give my life to have my son here today. I am sure that those of you with sons or daughters share these same feelings. While monetary benefits can never compensate for the loss of a loved one, financial assistance will lessen the sudden economic burdens which often accompany these tragic, senseless deaths. Can anyone not agree that $100,000.00 is the minimum benefit that we must provide to the survivors of Public Safety Officers?

Mr. Chairman, Senators, Gentleman, I urge you to lend your support on this vital and much needed legislation.

Any change will not benefit me, nor the many survivors in the past. It will aid and benefit our survivors in the future, and tragically, we all know there will be many. Too many.

In my situation I was most fortunate to have a caring, loving husband and daughter,relatives and friends. My sons' fellow officers have remained loyal to us and to Johnny's memory. They all have provided me with the strength and courage to carry on. I have found that not every family is as fortunate as we are. That is why I am here today. It was almost two years after Johnny's death that I had to face the harsh reality that I was alive.

I became aware of the American Police Hall of Fame shortly after my Johnny's death, when we were presented posthumous awards-a medal of honor, a memorial flag, and citations in his memory. I can't tell you the increased pride we felt. Because of the American Police Hall of Fame, we knew that Johnny would never be forgotten. The Hall of Fame's goal is to serve as a "living memorial" and it has the distinction of being the only National Memorial that honors our heroic dead. Our Memorial room at the American Police Hall of Fame and Museum lists over 2,300 names of fallen officers.

Mr. Gerald S. Arenberg, Executive Director and Founder of the American Police Hall of Fame and Museum, saw another vital need for this great organization, a program for survivors. We both agreed through much correspondence and numerous telephone conversations, that a program was needed within the police community. This gentleman is to be highly respected and commended for his dedication and exhausting efforts. He has given "His All" for all law enforcement officers and their families. Hence, our Survivors Program started in January, 1986. Since its inception, I have written over 200 hundred letters, and I have been able to reach out to many survivors. When an officer is killed in the line of

duty, I receive notification from the American Police Hall of Fame. I then write a letter of condolence to the officers department and I write a personal letter to each survivor. I have made personal telephone calls when an officer alerts me to a special need. I never counsel survivors on grief and bereavment. I have no formal schooling in this area. My knowledge came to me from the school of life. While my letters compound my own grief, I feel that if one person is helped, my labor of love is worthwhile. It helps when someone in the same situation says, "I know how you feel.....I know what you are going through." Only someone who has lived through such a tragedy can appreciate its full horror.

I have not and will not accept any expenses or aid as Chairman of this Committee for Survivors. I do this in memory of my beloved son and because I care. When the headlines are gone, and the days pass, some people forget. It is my duty to remind everyone I come in contact with, that their officer will never be forgotten.

Most people have no idea how often and how many officers are killed. We do reach out to survivors to support their loss. It's not an easy task....their sorrow is ours. Every officer we see is a symbol of law and order, and may well be the next victim of a crazed killer.

On behalf of the American Police Hall of Fame and the National Association of Chiefs of Police, I ask only for your fairness, in meeting our nations obligations to its police families. These brave, dedicated officers gave their lives for you and I.

I sincerely thank each and everyone of you for the privilege and honor to be invited here today.

On behalf of all the "Johnny's" who have made the supreme sacrifice and for their survivors, I thank you for giving me the opportunity to speak on this vital matter.

SUBCOMMITTEE ON CRIMINAL LAW
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

September 19, 1986

Answers by: Irene Sudano
to
Questions submitted by Senator Arlen Specter

1. I do not oppose any of these bills. I am in support of all of the bills. I feel that all men and women engaged in the profession of Public Safety Officers are always in a high risk situation. They dedicate themselves to protect us from life threatening dangers and situations, while putting their own lives on the line. Unfortunately, too many times, their duties result in the ultimate sacrifice. I cannot honestly express any views regarding the differences of these bills. I am not knowledgeable in the medical profession, therefore, I cannot comment on S. 917-, Public Safety Officers who die of "Service related causes, not the result of traumatic injury."

2. I am satisfied regarding the funding mechanism in S. 2499. Although, I wish the penalty imposed on convicted felons would be more than $500.00. When you consider that $1.7 million dollars was spent to bring my sons' killers to trial, convict and sentence them, and then spend $38,000.00 a year,(which is more than most Public Safety Officers earn in a year,) for each of them for the next 30 years to house and feed them, can anyone not agree that $100,000.00 is the minimum benefit that should be paid to the survivors of Public Safety Officers. Is a criminals life worth more? It certainly appears that way.

3. Regarding S. 2499, I urge the Committee to delete the dependency clause for parents of unmarried officers. I would like to see the passage of all bills, S. 917, S. 1479 and S. 2499. Foremost, I urge the Judiciary Committee to lend their support to S. 2499, an important and much needed legislation.

page 2-

Continued answer to question number 3, by Irene Sudano

I would hope that the Committee consider bills, S. 917, S. 1479 just as important and vital as S. 2499. But while reviewing all the language contained in these two bills, do not hinder the passage of S. 2499 before the end of the session.

A personal note to Senator Arlen Spector:

My dear Senator:

I would like to bring to your attention a matter that I consider to be vital and should be given serious consideration by the Senate Judiciary Subcommittee on Criminal Law.

I have spoken to numerous police officers, at random, concerning this issue, and all their responses were positive. I strongly feel that a Public Safety Officer should have the right to designate his own beneficiary for the Public Safety Officers Benefit. Tragically, it is his or her life that is being forfeited.

Examples: An unmarried officer comes from a home where the father or mother may have abandoned the family. Never paying support, never seeing the child, etc. For such a parent to receive a death benefit for that son or daughter could only be regarded as a "profit", or in harsh words, "blood money." In a situation of a wayward spouse, the officer could designate the benefit to be paid to his children and know that their needs would be met. One officer told me that, "He knows if anything happens to him, his wife would be married in 6 months."

We are all well aware of wayward police officers also. We all know the statistics on the divorce rate among Public Safety Officers, but as long as there is a spouse, children, and parents, grandparents, the benefit could only be paid to a blood relative. This is only an opinion and thought. If you feel there is some significance, I ask that you please give this matter serious consideration.

I sincerely thank you for your valuable time for listening to our needs. God bless you and yours.

Sincerely,

Irene Sudano

Irene Sudano
57 Mistletoe Road
Niles, Ohio 44446

Senator BROYHILL. We want to thank you very much for coming today. This is an important program; $50,000 is not going to bring back the loved one, but some compensation can help the families ease their burden in their time of sorrow and their time of loss, is the least, of course, that we can do. These brave men have been out there risking their lives. They have been out there carrying out their duties. And it seems the least that we can do is to assure them some financial assistance for the families to carry their burdens.

We appreciate the fact that you, Mrs. Sudano, are speaking out, and I do appreciate your concern and also your outrage at the unfairness of the fact that your son's murderers are, you might say, still there, where the taxpayers are putting up the money for their sustenance.

We thank you very much, all of the witnesses today. The committee stands in recess subject to the call of the Chair.

Thank you very much.

[Whereupon, at 12 p.m., the subcommittee adjourned, subject to the call of the Chair.]

APPENDIX

TESTIMONY

OF THE

INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS

The International Brotherhood of Police Officers is an affilliate of the Service Employees International Union, AFL-CIO. We represent tens of thousands of police officers in federal, state anu local governments throughout the United States. Our union is committed to improving the health, safety and working conditions of police officers throughout the country. We are pleased that this Committee is considering needed changes to legislation of great importance to us - - - Public Safety Officers Benefit Act of 1976.

The IBPO is proud of it's role in passing the Public Safety Officers Benefit Act of 1976. This legislation, as you are aware, established a $50,000 federal payment to the surviving dependants of law enforcement officers and firefighters who gave their lives in the line of duty. This legislation recognized society's moral obligation to provide for dependents of public safety officers who died in the line of duty. The legislation implemented this moral obligation in a tangible manner by provding survivors of officers killed in the line of duty with a $50,000 death benefit. This insurance coverge was deemed particularly appropriate because many survivors found it difficult to obtain adequate life insurance coverage as a result of the hazardous nature of their work.

While the PSOB was of landmark importance substantial importance to police officers when passed it is in need of substantial change. In the decade since the Public Safety Officer Benefit Act has passed, the cost of living index has risen drastically despite this inflation, we have failed to adjust the death benefit protection provided the families of our nations police officers.

There are several bills pending before this Committee which provide needed changes to PSOB. The IBPO strongly supports S-2499, a bill introduced by Senator Riegle to increase the amount of the death benefit to $100,000, and to provide for annual cost of living adjustments. This small increase in the benefit is necessary to provide the support Congress intended for the widows and children of deceased police officers. Perodic adjustment in the amount of the benefit is reasonable and necessary in order to perserve the integrety of the program from the ravages of inflation. Under S-2499 the cost of this increase would be assumed from a trust-fund maintained by the Treasury and funded by the payment of fines by convicted federal felons. The taxpayer would thus be free of any additional costs arizing out of the program.

The IBPO also strongly endorses S-917 introduced by Senator Glenn, which amends sections of PSOB dealing with what incidents consititute a line of duty injury for purposes of payment of the death benefit. The orginial Act's language requires that benefits be paid if the death is the "direct and proximate result of a personal injury sustained in the line of duty". In the report filed by the House Judiciary "personal injury" was defined as "all injuries to the body which are inflicted by an outside force, whether or not it is accompanied by a physical impact, as well as diseases which are caused or result from injuries, but not diseases that arise merely out of performance of duty."

The regulations developed by the Law Enforcement Assistance Administration (LEAA) intepreted "personal injury" as limited to those deaths caused by "traumatic injuries" only. These regulations accordingly limit coverage to injuries caused by an "external force" and excludes stress and strain.

The interpretation of LEAA would preclude coverage of police officers who die in performance of duty from medical conditions, even if the death occurred at the scene of a crime and is traceable to a single incident of extreme stress caused by law enforcement activity. A police officer, for instance who dies of myocardial infraction during a strenuous chase after an armed and dangerous felon, would receive no benefit, unless the grieving family could demonstrate a substantial connection between the injury and the heart attack. This can require complex, and technical standards of proof in instances where the death is obviously work related and occurring in the line of duty.

A bill, (S-917) introduced by Senator Glenn seeks to remedy this inequity. The amendment would provide coverage only to those who lose their lives while directly engaged in the performance of duty, and while subject to extreme physical stress, on a single occasion or during a single event. This bill would not broaden coverage of PSOB to extend to occupational diseases arising from long term stress. This bill would correct an unintended inequity which was created in the administration of the original PSOB.

Finally the IBPO endorses S-1479 introduced by Senator Sasser which extends coverage of PSOB to surivors of paramedics and EMT's killed in the line of duty. It appears that these public employee were unintenionally dropped from the coverage of the PSOB and should in equity and fairness be included under it's protections

The IBPO strongly urges the Committee to support this important piece of legislation. We pledge our continued support to make these needed changes in law.

INTERNATIONAL UNION OF POLICE ASSOCIATIONS AFL-CIO

THE ONLY UNION FOR LAW ENFORCEMENT OFFICERS

Robert B. Kliesmet
President

Al Angele
Secretary-Treasurer

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Testimony of

ROBERT B. KLIESMET
PRESIDENT

of the

INTERNATIONAL UNION OF POLICE ASSOCIATIONS, AFL-CIO

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

My name is Robert B. Kliesmet and I am President of the International Union of Police Associations, AFL-CIO. Thank you for the opportunity of submitting our testimony in support of S.917, S.1479 and S.2499.

As a labor union representing the rank and file members in law enforcement we were in the forefront in enactment of Public Law 94-430 in the 94th Congress (H.R.366, September 29, 1976) Public Safety Officers' Death Benefits. We also were in the forefront of the 1983 enactment of a measure that provides the same benefits to our brothers and sisters in Public Safety in the Federal Sector.

We now ask your support for S.917 which would extend coverage to our members who die of injuries or actions directly related to their performance while engaged in their respective assignments.

We urge you to support and approve S.1479 which would extend coverage to Emergency Medical Technicians who are an integral part of the Public Safety Sector.

Finally, we urge you to approve S.2499 which would raise the level of death benefit provided from $50,000 to $100,000. In addition to raising the death benefit S.2499 would extend the definition of beneficiaries to include the Public Safety Officer's parents. It would provide an automatic annual adjustment to the benefit level by using the annual percentage change in the Consumer Price Index for All Urban Consumers. S.2499 provides a funding system for the benefit improvement without placing the funding burden on the taxpayer.

Again, we urge your support for those three important amendments to the Omnibus Crime Control and Safe Streets Act of 1968.

NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
1600 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20036

STATEMENT OF JAMES JAY BAKER,
DIRECTOR OF GOVERNMENTAL AFFAIRS,
INSTITUTE FOR LEGISLATIVE ACTION,
NATIONAL RIFLE ASSOCIATION OF AMERICA.

MR. CHAIRMAN, THE NATIONAL RIFLE ASSOCIATION (NRA) OVER THREE MILLION MEMBERS STRONG ENJOYS A BROAD CROSS-SECTION OF MEMBERSHIP AND FOR MANY YEARS HAS BEEN THE LEADER IN TRAINING POLICE IN THE PROPER HANDLING AND USE OF FIREARMS. THERE ARE OVER 10,000 NRA-TRAINED POLICE FIREARMS INSTRUCTORS THAT HAVE TAUGHT HUNDREDS OF THOUSANDS OF POLICE OFFICERS IN THE SAFE AND EFFICIENT USE OF FIREARMS. THROUGHOUT THE YEARS THE NRA HAS ALSO SPONSORED POLICE MATCHES IN NEARLY EVERY STATE IN THE COUNTRY. WE ARE PROUD TO HAVE THOUSANDS OF POLICE OFFICERS AND THEIR FAMILIES AS MEMBERS OF THE NRA, WHO SUPPORT OUR POLICE FIREARMS SPORTSMANSHIP, EDUCATION AND TRAINING EFFORTS.

EVEN THOUGH THE SUBJECT OF YOUR HEARINGS TODAY, THE PUBLIC SAFETY OFFICERS DEATH BENEFITS, S. 2499, IS BEYOND OUR NORMAL JURISDICTION, AFTER MEETING WITH DENNIS MARTIN OF THE NATIONAL ASSOCIATION OF CHIEFS OF POLICE, THE NRA WISHES TO GO ON RECORD IN STRONG SUPPORT OF S. 2499. MR. MARTIN WAS NOT ONLY ABLE TO FIRMLY ARTICULATE HIS ASSOCIATION'S ARGUMENTS IN FAVOR OF THIS LEGISLATION, BUT ALSO TO ADDRESS THE DIRE NECESSITY FOR THE SURVIVORS.

THE NATIONAL ASSOCIATION OF CHIEFS OF POLICE HAVE REQUESTED OUR INVOLVEMENT AND SUPPORT OF THE PUBLIC SAFETY OFFICERS DEATH BENEFITS LEGISLATION, AND THE NRA IS PLEASED TO SUPPORT THEIR EFFORTS AND THOSE OF THE COUNTLESS OTHER POLICE GROUPS WHO ARE ASKING FOR SWIFT LEGISLATIVE ACTION BEFORE THIS CONGRESS COMES TO A CLOSE NEXT MONTH.

MR. CHAIRMAN, THANK YOU FOR THIS OPPORTUNITY TO PRESENT THE VIEWS OF THE NATIONAL RIFLE ASSOCIATION.